Recommendations
of the
Health Professions
Legislation Review

Striking a New Balance: a Blueprint For The Regulation of Ontario's Health Professions

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Health Professions
Legislation
Review

Suite 1400, 150 York Street
Toronto, Ontario
Canada
M5H 3T1
416/863-1944

The Honourable Elinor Caplan, M.P.P.
Minister of Health
Hepburn Block
Queen's Park
Toronto, Ontario
M7A 2C4

Dear Minister:

I am pleased to submit the final recommendations of the Health Professions Legislation Review.

In keeping with the Review's mandate, the recommendations are in the form of a proposed Health Professions Procedural Code and proposed Professional Acts for the twenty-four professions to be regulated.

Respectfully submitted,

Alan M. Schwartz
Co-ordinator

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The Review could not have accomplished its mandate without the enthusiastic participation of scores of individuals and organizations. Differences of opinion among participants, and between participants and the Review, sometimes led to spirited debate. Despite the strength of their views, the vast majority of participants recognized that the resolution of differences was essential to the success of the Review and to the creation of a new regulatory system. It is to the participants' great credit that the majority of differences were resolved, and that the broad public interest prevailed over more narrow interests.

We also thank the Ministry of Health and its officials, especially Paul Gardner, Senior Policy Co-ordinator, Health Disciplines, who so ably performed the difficult task of providing liaison between the Ministry and the Review.

Lastly, I wish to acknowledge the members of the Review Team for their unflagging energy, dedication and commitment to the public interest. I am indebted to them for their good humour during this sometimes contentious and always complex project. During the crucial early years, Jim Fisher constructed a strong conceptual framework for the Review, and provided invaluable insight and guidance. Morrey Ewing astutely analyzed participants' submissions. During the second half of the Review, Matt Holland ably managed the complexities of working out the scope of practice model. Linda Bohnen provided fresh enthusiasm, good sense and a balanced overview during the Review's last year. Finally, from the Review's inception to its completion, Daphne Wagner applied scrupulous intellectual rigour and devotion to principle.

Alan M. Schwartz
Review Co-ordinator

Executive Summary

The Mandate of the Review

In November, 1982 the Minister of Health for Ontario announced the creation of the Health Professions Legislation Review. The Review's mandate was to make recommendations to the Minister in the form of draft legislation, with respect to:

- which health professions should be regulated;
- updating and reforming the Health Disciplines Act;
- devising a new structure for all legislation governing the health professions; and
- settling outstanding issues involving several professions.

The creation of the Review was the result of various pressures for change in the way health professionals are regulated. The public sought a more open, responsive and accountable regulatory system, especially in relation to complaint investigation and discipline processes. Many unregulated health care groups sought to be regulated. Groups regulated under outdated statutes sought to be regulated under the Health Disciplines Act. Hospital administrators and other employer groups expressed frustration with the restrictions the existing system placed on their ability to utilize health care providers efficiently. Government realized that co-ordinated policy direction of all health professions was unattainable under the existing system.

The Purpose of Professional Regulation

Through professional regulation the nature and quality of health care services can be regulated. Professional regulation is aimed at advancing the public interest, not the interests of the professions. The Review's recommendations are aimed at advancing the public interest in four ways:

- Protecting the public, to the extent possible, from unqualified, incompetent and unfit health care providers.
- Developing mechanisms to encourage the provision of high quality care.
- Permitting the public to exercise freedom of choice of health care provider within a range of safe options.
- Promoting evolution in the roles played by individual professions and flexibility in how individual professionals can be utilized, so that health services are delivered with maximum efficiency.

The Review's Methodology

The Review was a collaborative exercise that involved more than 200 groups, including approximately 75 health professions represented by governing bodies and one or more voluntary associations, public interest groups, advocacy organizations, health care institutions and unions.

The Review invited the widest possible range of participants to make written submissions on all regulatory issues. Workshops, meetings and consultation sessions were held to provide information to participants and to obtain reaction to preliminary proposals. Proposals were revised to respond to participants' submissions and circulated a second time to obtain further comment. Most proposals were the subject of at least two rounds of broad formal consultation.

Research was conducted into the regulation of the health professions in every other province, several U.S. states and 10 industrialized European nations. The Minister of Health (an office held by six individuals during the Review's mandate) was kept informed of the Review's progress and preliminary proposals. Decisions on a number of key regulatory issues were announced by the Minister.

The Professions to be Regulated

More than 75 health professions requested regulation. On April 3, 1986, the Honourable Murray Elston announced that 24 health professions would be granted self-regulation. The list included seven currently unregulated professions, four professions currently regulated by the Drugless Practitioners Act, six professions now regulated by individual statutes, and six professions currently regulated under the Health Disciplines Act.

Mr. Elston also announced that the majority of professions would be governed by individual governing bodies or Colleges, while four pairs of professions would be jointly regulated, or clustered, under one College.

The Honourable Elinor Caplan later announced that, in keeping with the recommendations of the Task Force on the Implementation of Midwifery in Ontario, midwifery would be governed by a separate college.

Legal and Procedural Provisions

The Review recommends that a uniform or omnibus Health Professions Procedural Code be enacted and that the Code be coupled with an individual Professional Act for every profession (or clustered pair of professions) to be regulated.

Under this structure the public will have the same rights and remedies in relation to all health professionals. Co-ordinated policy direction will be possible, and the statutory amendment process will be greatly simplified.

The recommended legislation is based on the existing Health Disciplines Act, but includes new provisions that will enhance public protection. When the recommended legislation is passed:

- The powers of the Minister of Health to make and amend regulations will be extended.
- All Colleges, the Health Disciplines Board (enlarged and renamed the Health Professions Board) and the new Health Professions Regulatory Advisory Council will file annual reports with the Minister.
- The number of public appointees on Councils and College committees will increase.
- Council meetings, discipline hearings and complaint reviews will be open to the public, and the public will have greater access to specified information on College registers.
- Complaints Committees will be better able to investigate complaints against health professionals, and dissatisfied patients who request reviews of Complaints Committee decisions will have access to the record of the investigation.
- Colleges will be required to publish discipline decisions and reasons.
- All Colleges will have effective powers to deal with physically or mentally incapacitated professionals.
- Colleges will be required to develop programs to assure that health professionals maintain their competence after their initial registration.
- Persons who employ or practise with health professionals will be required to file reports with the College whenever a professional relationship is terminated because of professional misconduct or incompetence.

Scope of Practice

The Review recommends a new system for regulating the health professions' scopes of practice, or areas of permitted practice. The system is based on the principle that the sole purpose of regulation is to protect the public interest, and not to enhance any profession's economic power or to raise its status. The existing system, in which a small number of health professions are "licensed" (their members have an exclusive licence or monopoly over the provision of services that fall within their scope of practice) and others are "registered" (their members have the exclusive right to use certain titles), does not effectively protect the public from unqualified health care providers. As well, it has undesirable effects on the health care system. In particular, it inhibits innovation in the way various health professions can be utilized, making it more difficult to provide the best service at the lowest cost.

The system recommended by the Review has three main elements:

- Every Professional Act contains a general statement describing, but not licensing, the profession's scope of practice. In most cases the general statement describes the profession's current scope of practice.

- All potentially harmful acts and procedures are licensed. Licensed acts may be performed only by qualified health professionals authorized by their Professional Act to perform them.
- The Health Professions Procedural Code makes it an offence to treat, offer to treat, or advise in respect of any human health condition in circumstances in which the treatment, offer of treatment or advice (or any omission from them) may result in harm. An exception is granted to health professionals acting within their scope of practice.

The new system offers several important advantages:

- It will more effectively protect the public from harm caused by unqualified health care providers.
- It respects the consumer's right to choose his or her own health care provider from a range of safe options.
- It will permit the evolution of a more flexible, rational, and cost-efficient health care system.

Professional Titles

Members of the public must be able to identify different health care providers if they are to make informed choices. Restricting the use of professional titles is the primary method of enabling the public to distinguish regulated professionals from unregulated health care providers, and to distinguish among regulated health professionals.

Each Professional Act will list the titles restricted to members of the profession. For most professions, titles currently in use in Ontario are protected. For a small number of professions, new titles have been recognized with the agreement of the profession and the titles now in use will be phased out.

To ensure that members of the public are not confused when seeking primary health care, use of the title "Doctor" by health care providers will be tightly controlled.

Conclusion

The Review believes that its recommendations will produce a better regulatory system.

The new scope of practice system will provide better public protection while permitting more efficient and cost-effective delivery of health care services.

A larger number of regulated health professions — new as well as traditional professions; predominantly female as well as predominantly male professions — will be given equal status and a public policy forum in which to express their views.

Colleges will have the powers necessary to regulate health professionals effectively, and will be more accountable to the public for how they exercise their powers.

Overview of Recommendations

Mandate

The Minister of Health for Ontario announced the creation of the Health Professions Legislation Review in November, 1982. Terms of Reference dated April 20, 1983 established the Review's mandate as follows:

1. Determine which currently regulated health professions should continue to be regulated;
2. Determine which currently unregulated professions should be regulated;
3. Update the procedures in the Health Disciplines Act, primarily to "fine tune" procedures introduced in 1974;
4. Incorporate any substantive reforms or additions that are considered appropriate;
5. Extend the structural and procedural reforms introduced by the Health Disciplines Act to all other health professions to be regulated;
6. Develop a new structure for all the legislation governing the health professions; and
7. Settle outstanding issues in several professions.

The Review was created at a time when much pressure for change to the existing regulatory legislation was being exerted. Members of the public were expressing doubts about the thoroughness of governing bodies' investigations of complaints against their members, and demanding more open and responsive complaints and discipline processes. A large number of unregulated health care groups were pressing the Ministry to become regulated. Health professions currently regulated by a number of outdated statutes were seeking to be regulated under the Health Disciplines Act. Hospital administrators were expressing frustration with the rigidity that the existing regulatory system imposed on their ability to employ the most efficient and cost-effective mix of health care providers. Finally, it was recognized within the Government that the existing patchwork of legislation made co-ordinated policy direction of the health professions impossible to achieve.

The Review was charged with presenting its proposals and recommendations directly to the Minister. This was envisaged as an ongoing, incremental exercise, in which the Minister would be kept abreast of the direction of our thinking and our proposals, and no final report as such would be prepared, as is usually the case with task forces and commissions. Instead, recommendations would be framed in the form of proposed legislation. Our meetings with Ministers provided us with reaction to our preliminary proposals, and ensured that we were made fully aware of the Minister's policy objectives. Information and recommendations provided to Ministers made possible the announcement of decisions at critical junctures (e.g. the selection of professions that will be regulated). These announcements in turn enabled us to move on to consider new issues and to focus our attention on the concerns that would ultimately be addressed in legislation.

It should be acknowledged that the Review's mandate coincided with a time of political change. Midway through the course of the Review there was a change of Government, and there have been a total of six Ministers of Health. Each new Minister faced the task of familiarizing himself or herself with the Review's work to date. The Review's progress was slowed by the necessity of briefing new Ministers and reassuring participants that there would be continuity in relation to our proposals. We very much appreciate the energetic interest in the Review demonstrated by the current Minister of Health, the Honourable Elinor Caplan, and her commitment to its actualization in legislation.

Finally, it must be noted that our mandate also coincided with a period of what many perceive as a crisis in health care generated by ever increasing costs. This crisis has led to even greater recognition that changes must be made in the way health care services are delivered.

Objectives of the Regulatory System

The regulation of the professions is one of a limited number of mechanisms available to the Government through which it directs the provincial health care system. While other mechanisms, such as the allocation of financial resources and manpower planning, are largely directed at influencing the nature of the services that are provided, professional regulation is directed at regulating both the nature and the quality of those services. Its importance lies in this fact, and in the fact that, unlike institutional regulation, which is geographically limited in its impact, professional regulation influences health care throughout Ontario.

The Review's paramount objective has been to design a new regulatory framework that will more effectively advance and protect the public interest. We view this as having four aspects:

1. The public must be protected from unqualified, incompetent and unfit health care providers to the extent possible.
2. Mechanisms must be in place to encourage the provision of high quality care.
3. The public should have freedom of choice within a range of safe health care options.
4. There should be scope for evolution in the roles played by individual professions, and flexibility in how individual professionals can be utilized, so that the system operates with maximum efficiency.

We believe that our recommendations are consistent with the policy objectives of the Ministry of Health and that if implemented, our recommendations will move Ontario closer to a health care system that delivers uniformly excellent health care in a more efficient and rational manner.

Methodology used by the Review

We are proud to report that the work of the Review has been characterized by what we believe to be unprecedented consultation with health care providers and consumer interest groups. Our recommendations have been vastly improved by this. In addition, by participating in the Review, the majority of professions have developed a commitment to the proposed new direction for our province's regulatory system.

Furthermore, we believe that the process has been beneficial to the health care community. Professions that previously had little knowledge of each other and communicated infrequently have had an opportunity to learn about each other and to form lines of communication. They will emerge from the project with a greater sense of partnership.

The Request for Proposals initially prepared by the Ministry of Health estimated that 27 professions and a number of interested groups would be likely to participate in the Review. The proposal submitted by the Canada Consulting Group, based on a preliminary survey, estimated that a slightly larger number of groups would be interested in the Review. In fact, both estimates grossly underestimated the level of interest: more than 200 participants expressed the desire to participate in the Review, including approximately 75 health provider groups as well as a broad range of groups representing other interests.

In September 1983 the Review circulated a first Topics Paper which invited responses to questions on 22 topics, covering all aspects of professional regulation. We then contacted more than 200 groups that identified themselves as having a potential interest in one or more of the 22 topics, and we met with many of them in an effort to elicit submissions from the broadest possible range of participants. We received 120 written submissions in response to this Topics Paper, from public interest groups and advocacy organizations, professional associations, governing bodies, health care institutions and unions. Throughout the course of the Review we encouraged them all to be active participants.

In April 1984 we analyzed the first submissions and sent detailed follow-up questions to each participant. This phase of the Review set the tone for our future dealings with participants. The questions, which were specific to each participant, challenged the participants to explain more fully or re-examine their opinions, to reconcile elements of their point of view that seemed contradictory, and to address the often differing opinions of other related groups. All participants that represented professions were challenged equally, which had two important results: the currently regulated professions realized that they would not be allowed to rely on their current status to avoid difficult issues, and the new professions realized that they would be taken seriously provided they gave serious consideration to the issues.

Our questions elicited responses from all but two of the original participants and from 15 new participants. Our analysis of the responses showed that the positions adopted by the various groups were changing. Among the professions, many that had begun with an extensive list of claims for regulatory expansion and demands for exclusive practice rights had moved to more moderate positions. Other professions had added sophistication to their early positions, having learned more about the subtleties of regulatory policy. Still others had widened the scope of their submissions in response to submissions from groups with fresh ideas and different viewpoints. Many participants representing professions were starting to set priorities; much pruning of "wish lists" had become evident. However, a significant minority of participants had dug in their heels, preferring to spar with traditional rivals than to reach an accord on contentious issues.

In September 1984, on the basis of the Review's recommendations, the Minister's initial decision as to which professions would not be regulated was announced. At the same time, a list of the 39 health professions for which regulation was still being considered was released. The decisions were based on the application of nine published criteria, each of which had to be met in order to justify self-regulation. Although the professions that were not to be regulated expressed disappointment with the decision, the vast majority accepted it, largely because the criteria were universally endorsed by participants.

In December 1984 we reported on the results of research into the regulation of the health professions in every other province, several U.S. states and 10 industrialized European nations. Our research indicated that while the regulatory systems in most jurisdictions are facing similar pressures, no jurisdiction has developed an effective new regulatory model that might be adapted to meet Ontario's needs. Indeed, we learned that virtually every regulatory system is the result of unique social, political and economic pressures experienced in the jurisdiction at the time of the system's development. Because of this, no foreign solution can simply be transferred to the Ontario. Furthermore, we found it noteworthy that many jurisdictions admire the Health Disciplines Act system, particularly for its modification of "pure" self-governance in favour of the public interest.

The Review maintained contact with regulators in a number of jurisdictions. Over the past few years an awareness has grown among them that a new regulatory model must be developed if health care systems are to meet the demands of the future. For this reason they have monitored our progress and await new legislation in Ontario with interest.

During summer 1985 a final series of questions was posed concerning the ability of the 39 professions on the preliminary list to meet the criteria for self-regulation. Many meetings were held to explain the criteria, and to assist groups to formulate their submissions. Submissions were received in October 1985, and the Review's recommendations in this area were presented to the Minister in a series of briefings in November and December of that year.

On April 3, 1986, the Minister announced the final list of 24 professions that would be granted the right to govern themselves pursuant to statute under the jurisdiction of the Ministry of Health. Once again, although those professions that will not be regulated were disappointed, most accepted the decision with considerable grace. They acknowledged that they had been fully consulted and heard on the issue, and were aware that the new Health Professions Regulatory Advisory Council will provide a forum for future consideration of their desire to be regulated. One health care provided group, naturopathy, persisted in vigorously pressing its case for continued self-regulation.

The Review recognized that among the 24 professions to be regulated there was great disparity in experience and knowledge of self-regulation. We believed that all participants had to be brought to a certain level of knowledge, to enable them to participate meaningfully in the remaining work of the Review, and to prepare the professions to govern themselves. For this purpose two participant workshops were conducted during summer and fall 1986.

The Review also began to focus on Legal and Procedural Proposals and Scope of Practice Proposals. Extensive consultations were held with health professions experienced with regulation and with their legal advisors, and with others who expressed particular interest, and another Topics Paper on legal issues was circulated in August 1986. In this Topics paper we raised and discussed a small number of issues central to the self-regulatory structure. Our intent at this stage was not to elicit detailed comments on particular proposals. Rather, we focussed on general principles, and in the course of educating many participants not well acquainted with self-regulation, established a set of basic principles and a public interest framework.

In summer 1986 a workshop was held at which the Review's initial Scope of Practice model was presented. We informed participant professions of the principles of the model, and how it would work for individual professions. We invited their reaction, and asked them to prepare preliminary statements setting out the scope of practice and licensed acts of their profession. The preliminary proposals were circulated to all participants for their comments, and all of this participant input was used to prepare the Review's initial scope of practice statements and lists of licensed acts. These in turn were circulated to participants in December 1987 and their comments were invited.

In October 1986 the Review's first set of Legal and Procedural Proposals (what came to be known as the "green book") was circulated to participants. The proposals were based in large part on the Health Disciplines Act, the responses to the various Topics Papers, and extensive discussions with experienced regulators. The proposals elicited detailed submissions from participants, dealing with both policy and drafting issues, and led to consultation sessions with many participants.

Early in 1987 recommendations were presented to the Minister concerning the clustering or pairing of certain professions under a single governing body. On March 12, 1987 the Minister announced that dental hygienists will have their own governing body, while the College of Nurses will continue to regulate both registered nurses and registered nursing assistants.

Simultaneously, consultations continued about the Legal and Procedural Proposals, and revised proposals ("the red books"), including individual Professional Acts, were circulated to participants in June 1988. These proposals contained many revisions suggested by participants, and the Professional Acts in particular were heavily based on consultations with every directly affected participant. Once again all participants were invited to submit comments on matters of interest.

As well, initial proposals concerning professional titles were circulated in July 1988. The titles proposed by the Review reflected the desire of a number of professions for recognition of the titles now commonly used by their members.

The final recommendations now submitted are based on a thorough analysis of the submissions and discussions outlined above, all considered from the point of view of how the public interest can best be served. In particular, the recommendations reflect the fundamental principle that to the extent possible, the self-regulatory system must assure the public of safe, high quality health care, and protect it from unqualified, incompetent and unfit health care providers.

However, we also recognize that to be effective, the regulatory system must take into account the experience, values and views of the regulated professions as a whole and of their individual members. Self-regulation cannot function successfully unless the individuals regulated consider it to be a fair and appropriate balance of competing objectives. Governing bodies depend on individual members contributing their time and effort to Council and committee work. As the per diem fees paid by Colleges rarely fully compensate members for their lost earnings, a significant component of governing body work is altruistic. College enforcement activities, especially in the continuing competence area, depend on members to co-operate and would be impeded, if not paralysed, were members to adopt a hostile or recalcitrant attitude. In addition, the legislation must comply with the Canadian Charter of Rights and Freedoms; preferably, it will be so manifestly fair that judicial challenges will be infrequent.

As a result the Review worked towards striking the proper balance between professional independence and public accountability, while paying attention to traditional rivalries and tensions between health professions.

Professions to be Regulated

Although it had been anticipated that fewer than 20 health professions would seek self-regulation pursuant to a statute administered by the Ministry of Health, in fact more than 75 did so.

In order to analyze the merits of the requests made for self-regulation, it was necessary to develop and apply criteria. The criteria used by the Review were developed after research into the academic literature on professional regulation. All participants were given an opportunity to state their views on the criteria.

The criteria addressed four basic issues:

1. Is it appropriate for the Ministry of Health to exercise responsibility for regulating the profession in question, or does the profession more appropriately fall within the policy domain of another Ministry?
2. Is statutory regulation of the profession necessary? In relation to this issue we examined whether the profession's activities pose a significant risk of harm to patients, whether a large proportion of the profession's members are supervised by members of another regulated profession, and whether an alternative regulatory mechanism exists for the profession.
3. Is regulation of any kind possible to implement for the profession in question? In relation to this issue we examined whether the profession has a body of knowledge that can form the basis of its standards of practice, and whether members of the profession are awarded a diploma or degree from a recognized Canadian post-secondary educational institution.
4. Is self-regulation practical to implement in relation to the profession in question? In relation to this issue we considered the ability of the profession's leadership to favour the public interest over professional self-interest, the likelihood of compliance by members of the profession, and whether the number of members and their willingness to contribute are sufficient to bear the costs of self-regulation.

The important principle underlying each of the criteria is that the sole purpose of professional regulation is to advance and protect the public interest. The public is the intended beneficiary of regulation, not the members of the professions. Thus the purpose of granting self-regulation to a profession is not to enhance its status or to increase the earning power of its members by giving the profession a monopoly over the delivery of particular health services. Indeed, although these are common results of traditional regulatory models, they are undesirable results, and the model of regulation we recommend aims to minimize them.

On April 3, 1986 the Honourable Murray Elston announced that the following professions would be self-regulating:

Audiologists
Chiropodists
Chiropractors
Dental Hygienists
Dental Technicians
Dentists
Denture Therapists
Dieticians
Massage Therapists
Medical Laboratory Technologists
Midwives
Nurses and Nursing Assistants
Occupational Therapists
Ophthalmic Dispensers
Optometrists
Osteopaths
Pharmacists
Physicians
Physiotherapists
Podiatrists
Psychologists
Radiological Technicians
Respiratory Technologists
Speech-Language Pathologists

The list included seven currently unregulated professions (audiologists, dieticians, medical laboratory technologists, midwives, occupational therapists, respiratory technologists and speech-language pathologists), four professions currently regulated by the Drugless Practitioners Act of 1925 (chiropractic, massage, osteopathy, physiotherapy), seven professions now regulated by individual statutes (the Chiropody Act (1944), the Dental Technicians Act (1947), the Ophthalmic Dispensers Act (1960), the Psychologists Registration Act (1960), the Radiological Technicians Act (1963), the Denture Therapy Act (1974), and the six Health Disciplines Act professions (dentistry and dental hygiene, medicine, nursing, optometry and pharmacy.)

Mr. Elston also announced that naturopathy, a profession currently regulated under the Drugless Practitioners Act, will not continue to be regulated in the new system. In 1987 the Premier requested the Review to consider whether naturopathy could now meet the criteria for self-regulation. In accordance with this request, we consulted with representatives of the profession of naturopathy to determine whether new information could be provided of such a weight as would justify recommending that the Government change its decision. In our view no such information has been provided.

Mr. Elston stated in his announcement that the philosophy of natural healing on which naturopathy is based makes it virtually impossible to define standards of practice by which members of the profession will consider themselves bound. For this reason, regulation of naturopathy is unlikely to confer any significant degree of public protection. It should be noted, however, that although they will not be regulated under the new system, naturopaths may continue to practise in Ontario within the limits of the law. In addition, it will be open to the profession to present its case for regulation in the future to the newly created Health Professions Regulatory Advisory Council.

Although all 24 professions met the criteria for self-regulation, it was recognized that many of them varied considerably in the degree of risk posed by their activities, in their size, and in their experience with statutory regulation. The regulatory model would have to be sufficiently flexible to take account of these differences.

We also recognized that the profession of midwifery was in a unique position. Midwifery's questionable legal status had prevented it from evolving naturally, and unlike the other professions that would be newly regulated, it functioned primarily outside the official health care system. Critical issues relating to the very nature of the profession and its role in the health care system would require resolution. For this reason we recommended that a Task Force be created to investigate these issues. This recommendation was adopted by Mr. Elston, and the Review's Co-ordinator served as Vice-Chairman of the Task Force to ensure that its work would be co-ordinated with the work of the Review. The Task Force on the Implementation of Midwifery in Ontario reported in fall 1987, and subsequently Mrs. Caplan directed the Review to incorporate in its recommendations the Task Force's recommendations relating to regulation. The most important of these was that midwifery be regulated by a separate governing body.

Mr. Elston also announced on April 3, 1986 his decision that the following groups would be clustered, or jointly regulated, under one governing body:

chiropodists and podiatrists
physicians and osteopaths
audiologists and speech-language pathologists
registered nurses and registered nursing assistants.

These groups would thus share a common Council and common committees, constituted under a common Act. The decision to "cluster" these groups was based on a combination of several factors. Often, paired groups represent different branches of a single profession. In all cases, the body of knowledge and skills of the linked professions overlap significantly. Clustering them facilitates consistent standards of practice, is cost-effective, and avoids public confusion. (The idea of administrative clustering, in which separate Colleges that regulate unrelated professions share support services, office premises, etc. was proposed at this time. We now recommend that administrative clustering not be statutory, but that governing bodies be encouraged to co-operate with each other to save administrative costs.)

Mr. Elston also announced that dental hygienists, who are currently governed together with dentists by the Royal College of Dental Surgeons, will have their own separate governing body. This decision reflected the fact that while dentists and dental hygienists work in close proximity, they are separate professions. Dental hygiene has evolved to the point where it is appropriate for hygienists to govern themselves independently of dentists.

Legal and Procedural Provisions

It was intended that the Health Disciplines Act would serve as the starting point for the design of the regulatory structure of all the professions to be regulated. When enacted in 1974, this Act placed Ontario in the forefront of professional regulation because of the way it melds provisions aimed at enhancing the public interest to the system of self-regulation. In many respects it remains progressive legislation 14 years later.

The Review was not asked to give serious consideration to replacing self-regulation with a different system, and we continue to believe that such a consideration is unnecessary. The complex and specialized nature of professional work demands that professionals play a significant role in their own regulation. Indeed, they play such a role even in jurisdictions that do not have formal systems of self-regulation. The Review continues to believe that self-regulation is the regulatory system of choice for Ontario, provided effective mechanisms are in place to safeguard the public interest.

Accordingly, in making recommendations relating to Legal and Procedural Provisions we have tried to achieve a number of specific policy objectives that, taken together, meet the overall objective of better public protection.

As has been outlined, the 24 professions to be regulated are currently governed by a multiplicity of statutes or by no statute at all. The existing statutes date from four different eras. They vary considerably in the structures they establish, and in their provisions setting out how the governing bodies deal with members of the profession and with the public. These differences exist even though all the governing bodies carry out the same mandate. The older statutes are grossly inadequate in terms of accountability, public participation and quality assurance. The newer statutes, including the Health Disciplines Act, are in need of amendment; yet even needed housekeeping amendments to that Act have not been implemented because its unwieldy structure has made successive Governments reluctant to table amendments in the Legislature.

This statutory patchwork has made consistency and policy co-ordination virtually unattainable. We therefore recommend that it be replaced by a new egislative structure. We recommend that a uniform or omnibus Health Professions Procedural Code be enacted. The Code will be coupled with an individual Professional Act for every profession (or clustered pair of professions). The Code contains the majority of organizational, legal and procedural provisions that apply to every profession, while the Professional Acts contain profession-specific provisions dealing with such matters as composition of the Council and committees. The Professional Acts also state each profession's scope of practice and licensed acts, and outline provisions unique to the profession.

Under this structure, all 24 regulated health professions will for the first time be bound by almost dentical legal and procedural provisions. The public will have the same rights and remedies in relation to hem all; for example, patients of all regulated health professionals will have access to the Health Professions Board if they are not satisfied with the govern-ng body's investigation of their complaint against a member.

This structure will also facilitate legislative amendments that may become necessary and desirable in he future. In most instances, by amending the mnibus Health Professions Procedural Code alone, he Government will be able to make changes that affect all regulated health professions. On the other hand, where the Government wishes to make amendments that pertain to a single profession, it can do so solely by amending its Professional Act. This is to be contrasted with the current situation, in which any procedural amendment to the Health Disciplines Act requires five of the six Parts of the Act to be identically amended.

The content of the Legal and Procedural Code builds on provisions contained in the Health Disciplines Act, which, as has been noted, was considered to be at the leading edge of professional regulation and public protection when it was enacted in 1974. The following reforms are noteworthy.

Accountability will be enhanced by:

- extending to all professions the Minister's power to make, amend and revoke regulations
- increasing the number of public members on Councils and committees
- opening Council meetings, discipline hearings and complaint reviews to the public
- giving aggrieved patients access to the record of a College's complaint investigation
- giving the public greater access to specified information on College registers
- requiring Colleges to file annual reports with the Minister
- requiring Colleges to publish disciplinary decisions and reasons

Public protection will be enhanced by:

- extending Colleges' powers over incompetent members
- requiring Colleges to operate continuing competence programs to ensure that their members maintain their competence after initial registration
- giving Colleges a range of flexible disciplinary penalties
- giving all Colleges effective authority to deal with physically or mentally incapacitated members

- requiring those who employ or associate in practice with health professionals to make a report whenever a professional relationship is terminated as a result of misconduct or incompetence

The formulation of public policy will be advanced by:

- the creation of the Health Professions Regulatory Advisory Council to give policy advice to the Minister
- utilizing the Advisory Council as an open forum for balancing the competing claims of various professions
- giving currently unregulated professions controlled access to the Advisory Council to express their claims for regulation

The Review's recommendations also reflect the principle that effective self-regulation requires that the professions themselves accept the regulatory system. The majority of health professionals and their organizations must be relatively satisfied with the system; they should not believe that their legitimate interests have been ignored. The system should not discourage professionals from co-operating with their Colleges, because regulation based on coercion is, in the long run, likely to be ineffective and expensive. Procedural rules must be consistent with current legal concepts of fairness; if they are not, the court challenges that are sure to result will drain the Colleges' resources and morale and further impair members' and the public's confidence in the system.

In our view it is necessary and possible to harmonize the interests of the individual professional with the public interest. This involves striking the appropriate balance between the powers of the governing bodies and the procedural rights of members. For example, we have recommended changes in the provisions relating to incapacity proceedings. The recommended provisions will give all Colleges clearly defined powers to deal with allegedly incapacitated members. These include the power to require the member to be examined by a health professional, and to suspend the member's registration if he or she refuses to submit to the examination. The College Executive Committee will be empowered to suspend the member's registration pending the outcome of a hearing if it believes that the member's physical or mental state exposes or is likely to expose patients to harm or injury. These powers are balanced by the member's right to a speedy hearing, and access to the courts if the member believes the College is not proceeding expeditiously. In sum, these provisions carefully balance the serious risk to the public posed by an incapacitated professional, against the serious personal consequences to the member of loss of registration. This approach to balancing the public interest and the individual member's interest has been taken throughout.

Scope of Practice

The Review's recommendations relating to Scope of Practice propose a regulatory model that is significantly different from the traditional method of regulating the scopes of practice of the health professions. In the past, a necessary consequence of the system was the granting of unnecessarily wide and ill-defined monopolies. While monopoly power may be to the advantage of the profession that wields it, it is difficult to justify in terms of the public interest.

As stated earlier, the model we recommend is based on the principle that the sole purpose of professional regulation is to protect the public interest. We believe that regulation of scope of practice is necessary because it is evident that some of the activities performed by health care providers pose a risk of harm if they are performed by unqualified persons. However, it is equally true that some health care services are not intrinsically hazardous. We believe that the public should have freedom to choose the caregivers from whom it obtains those services that are not unduly hazardous.

We believe that the existing regulatory model — both in principle and in how it has been applied — inadequately protects the public. Moreover, we believe it has undesirable effects on the health care system. In particular, it discourages flexibility and resists innovation in the provision of health services.

Some health professions, including all the Health Disciplines Act professions except nursing, are currently "licensed" professions. In theory, members of these professions have an exclusive licence or monopoly over the provision of services that fall within the scope of practice of their profession. Thus, for example, only a physician licensed by the College of Physicians and Surgeons of Ontario may lawfully practise medicine.

In fact, there is some considerable divergence between what is licensed in theory and what is practised in reality. The Health Disciplines Act does not define the practice of medicine, stating only that it "includes the practice of surgery and obstetrics". When the College of Physicians and Surgeons takes court action to stop someone from engaging in the unauthorized practice of medicine the courts must determine whether the impugned activities fall within the scope of practice of medicine. There are a small number of legal precedents, in part because the College goes to court infrequently. The result is sufficient uncertainty about the boundaries of medical practice that some "quackery" is practised in Ontario, as elsewhere, with relative impunity.

The currently regulated professions that do not have icensure have registration systems. Their members have no exclusive licence or monopoly over the provision of any services, only the benefits of registraion. Historically, the registered professions perceive registration as connoting a lower status, and for this and other, largely economic, reasons they have sought to obtain licensure.

The licensed professions justify their exclusive icences, and the registered professions justify their claims for licensure, in terms of protecting the public rom inadequate or harmful treatment rendered by unqualified caregivers. While we of course agree that his is an important objective, we are also aware that their claims are often influenced by the desire for status and the economic benefits of monopoly. In any event, we believe that a regulatory model that depends on classifying professions as "licensed" or "registered" is no longer the best way to achieve public protection.

The reality is that in no profession are all the activities engaged in by members potentially harmful. To prohibit other caregivers from providing harmless services solely because they are within the scope of practice of a licensed profession maintains a useless fiction. The obverse of this is also true: some activities now legally performed by unregulated, or regulated but unlicensed, professionals, are potentially harmful, and to the extent possible the law should not permit unqualified persons to perform them.

Ontario's experience with professional licensure demonstrates that it is very difficult to enforce an exclusive licence to practise. Colleges tend to rely on complaints to identify offenders, and thus enforcement activities are sporadic. They are reluctant to devote resources to prosecute cases in which no harm has actually resulted or, although harm has resulted, they see little likelihood of success for technical or strategic reasons. While this is understandable, it does lessen public protection as well as the system's credibility in the public mind.

We believe the existing model is disadvantageous for other reasons too. It necessitates hierarchical and therefore unequal relationships between licensed and registered professions. This produces tensions between professions and tends to inhibit co-operation. Licensure restricts evolution in the scope of practice of the unlicensed professions, and inhibits the development of new professions. It inhibits innovation in how the various health professionals can be utilized; this makes it difficult for institutions like hospitals and community health centres to use combinations of health professionals that will provide the best service at the lowest cost.

Finally, while the current model may have been appropriate in the past to regulate a relatively small number of health professions, it is not a workable model to regulate the considerably larger number that exist today. Our experience tells us that every profession to be regulated demands licensure. If all the demands were granted — and resisting them would be protracted and enervating — the health care system would approach ossification.

Rather than perpetuating an ineffective and outmoded model, we have developed an alternative that we believe will better protect the public while avoiding the disadvantages of exclusive licensure.
The model consists of three main elements. Every Professional Act will contain a general statement describing — but not licensing — the profession's scope of practice. The statement generally provides three types of information about the profession:

what the profession does
the methods it uses
the purpose for which it does it.

For example, the scope of practice of audiology is stated as:

> The practice of audiology is the assessment of auditory function and the treatment and prevention of auditory dysfunction to develop, maintain, rehabilitate or augment auditory and communicative functions.

The general scope statement will have a number of uses. It will describe for the governing body the area of practice in relation to which it must establish entry requirements and standards of practice. It will describe for consumers, members of the profession, employers, and courts the proper range of the profession's scope of practice. It will guide educators when they design and update curricula.

The second element of the new model is the list of "licensed acts". That is, the regulatory model licenses all potentially harmful acts and procedures. The Health Professions Procedural Code sets out the full list of licensed acts, expressed as thirteen categories, together with provisions prohibiting the performance of licensed acts by persons other than the health professionals authorized to perform them.

The Professional Acts then list the specific licensed acts which members of the profession may perform. The Medicine Act sets out the whole list, the Acts of six self-regulating professions list no licensed acts, and the remaining Acts contain one or more licensed acts. Some acts licensed to particular professions are subsets of acts licensed to another profession; for example, "managing labour and conducting deliveries" is licensed to physicians, while "managing labour and conducting spontaneous normal vaginal deliveries" is licensed to midwives.

In developing the licensed acts the Review consulted widely with expert members of every profession and sought comments from all participants. The Ontario Medical Association alone circulated proposals to more than 300 leading physicians and furnished us with the views of its specialized sections. We believe that there is considerable consensus that the list captures every potentially hazardous health care activity. Nevertheless, we recognize that the proposed list may have omissions and that potentially hazardous treatment modalities may develop in the future. For this reason, the statutory provisions have been structured to permit acts to be added — or deleted — with relative ease.

The third element of the scope of practice model are provisions which state:

(1) No person shall treat, offer to treat, or advise in respect of any human health condition in circumstances in which the treatment, offer of treatment or advice, or an omission therefrom, has resulted in harm or may result in a risk of harm.

(2) Subsection (1) does not apply to a person who is a member of a regulated health profession listed in schedules where the treatment, offer of treatment or advice is part of the practice of the profession of which the person is a member.

(3) In subsection (1), harm includes,
   (a) any or increased physical or mental disease, disorder, dysfunction, injury or pain; and
   (b) death or earlier death.

These provisions are aimed at unqualified caregivers who cause harm, or a risk of harm, without actually performing any licensed act. Although we believe that the licensed acts comprehensively cover all identifiable risks, we have included these provisions in our recommendations to provide an additional safety net to catch any residual harm. We believe that the licensed acts system together with these provisions will provide greater public protection than is possible under the current regulatory system.

It is important to note that under the new model, the authority to draw lines of demarcation between the professions' scopes of practice will, to a significant degree, shift away from the governing bodies of a small number of licensed professions. This authority will be more equally shared by all health professions, while the ultimate authority will reside with the Government. The Health Professions Regulatory Advisory Council will provide a forum for discussion of these important scope of practice issues and a source of policy advice to the Minister.

Before leaving the subject of scope of practice, it should be pointed out that in keeping with its mandate, the Review has made no recommendations directly relating to other legislation that affects scope of practice. In particular, we have made no recommendations concerning the Public Hospitals Act, the Healing Arts Radiation Protection Act, the Laboratory and Specimen Collection Centre Licensing Act and the Health Insurance Act. We will, however, identify statutory provisions and regulations that may require change to obtain consistency with the new regulatory system.

Professional Titles

Members of the public must be able to identify different health care providers. This is a cornerstone of consumer protection in professional regulation, because it helps consumers to make informed choices.

Consumers must be able to distinguish regulated professionals from other health care providers, and they must be able to distinguish among regulated health professionals. Restrictions on the use of professional titles are the primary method of enabling consumers to make these important distinctions.

We recommend that specified "generic" titles (e.g. "nurse", "dentist") listed in the individual Professional Acts be restricted to members of the profession. Use of generic titles together with the word "registered" will also be restricted.

For some professions, new titles have been created with the agreement of the relevant profession, and titles now in use will be phased out (e.g. "registered practical nurse" will replace "registered nursing assistant").

In addition, we recommend provisions that restrict how persons who are not members of the profession may represent themselves to the public.

Finally, to ensure that consumers are not confused when seeking primary health care, we recommend that use of the title "Doctor" in connection with the delivery of health care be tightly controlled.

Conclusion

The Review believes that our recommendations will produce a better regulatory system for Ontario. We believe that the new scope of practice model will provide better public protection while at the same time permitting more efficient and cost-effective delivery of health care services. Regulation's undesirable effects on professional status and economic power will be minimized, and a larger number of regulated health professions — young professions as well as traditional professions; predominantly female professions as well as professions that are predominantly male — will be given equal standing and a forum in which to express their views. The consumer's right to choose his or her health care provider from an array of safe alternatives will be respected.

We believe that reforms to the legal and procedural provisions of the Health Disciplines Act will give governing bodies the powers necessary to regulate their members effectively. Self-regulation overall will be more accountable to the public and more open to public scrutiny. Health professionals will be treated more fairly, in accordance with contemporary standards of due process of law.

Finally, we believe that the structure of the legislation and the resultant ease with which provisions can be amended, will maintain the system's relevance and usefulness during the years of change that lie ahead for the health care system.

Health Professions Procedural Code

Section 1 - General Definitions

1.01

(a) new; to refer to the newly established Health Professions Regulatory Advisory Council

(b) HDA 1(1)(a); no substantive change

(c) HDA 38(1)(a); no substantive change

(d) HDA 20(1)(a), 45(1)(a), 68(1)(a), 89(1)(a), 113(1)(a); no substantive change

(e) new; to refer to the authorization to use protected title(s) and to perform licensed acts while practising as a member of the profession. This revised wording is intended to indicate the link between licensed acts and the profession's general scope of practice.

(e^{1}) HDA 1(2)(a); in previous proposals the term "Governing Body" was used to mean the corporate body of a health profession. The term "College" has now been substituted and will be part of the name of the corporate body of every health profession to be regulated.

(f) HDA 1(2)(b); no substantive change

(g) new; to correspond to other committee definitions

Note

Two earlier versions of the Health Professions Procedural Code were circulated to participants. The section numbers used in these versions have been used in the final version of the Code presented here to make it possible to trace the evolution of provisions. Revisions, additions and deletions are explained in the commentary on the left side of the page. Underlining indicates changes from the Health Disciplines Act, R.S.O. 1980 c. 196 as amended.

1.01

In this Act

(a) "Advisory Council" means the Health Professions Regulatory Advisory Council established under section 3;

(b) "Board" means the Health Professions Board established under section 4;

(c) "board of inquiry" means a board of inquiry appointed by the Executive Committee under section 16;

(d) "by-laws" means the by-laws made under the Act governing the health profession or group of health professions;

(e) "certificate of registration" means a certificate of registration issued under an Act governing a health profession or group of health professions referred to in Schedule A to this Act, the issuance of which is required to be entered on the register of the appropriate College and which, subject to the terms and conditions attached to the certificate of registration, authorizes the holder of the certificate to use the protected title(s) and to perform authorized licensed acts in the course of practising as a member of a health profession;

(e^{1}) "College" means the corporate body of a health profession or group of health professions referred to in Schedule A to this Act and as established or continued under the Act governing the health profession or group of health professions;

(f) "Complaints Committee" means the complaints committee of a health profession or group of health professions as required herein and established for that health profession or group of health professions in an Act referred to in Schedule A to this Act;

(g) "Continuing Competence Committee" means the continuing competence committee of a health profession or group of health professions as required herein and established for that health profession or group of health professions in an Act referred to in Schedule A to this Act;

(h) HDA 1(2)(c); no substantive change

(i) HDA 1(2)(d); no substantive change

(j) new; to correspond to other committee definitions

(k) new; to correspond to other committee definitions

(l) HDA 1(2)(a); The term "College" has been substituted for the term "Governing Body". See section 1.01(e1) and commentary.

(m) HDA 1(1)(b); no substantive change

(n) HDA 38(1)(b), 62(1)(b), 84(1)(b), 106(1)(b), 131(1)(b), amended to remove the power to consider whether it is in the member's interest to remove the certificate. The College's concern is the public interest; the member may resign if he or she believes that to do so is in his or her interest

(o) HDA 20(1)(e), 45(1)(e), 68(1)(f), 89(1)(e), 113(1)(h), no change

(p) HDA 1(1)(c); no change

(q) HDA 20(1)(g), 45(1)(h), 89(1)(g), 113(1)(p), no substantive change

(r) HDA 1(2)(e); amended to remove the reference to a "licence"

(h) "Council" means the governing body of a health profession or group of health professions as required herein and established for the health profession or group of health professions in an Act referred to in Schedule A to this Act;

(i) "Discipline Committee" means the discipline committee of a health profession or group of health professions as required herein and established for that health profession or group of health professions in an Act referred to in Schedule A to this Act;

(j) "Executive Committee" means the executive committee of a health profession or group of health professions required herein and established for that health profession or group of health professions in an Act referred to in Schedule A to this Act;

(k) "Fitness to Practise Committee" means the fitness to practise committee of a health profession or group of health professions required herein and established for that health profession or group of health professions in an Act referred to in Schedule A to this Act;

(l) deleted

(m) "health profession" means a health profession designated in Schedule A to this Act;

(n) "incapacitated member" means a member suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interest of the public that the member no longer be permitted to practise or that the member's practice be restricted;

(o) "member" means a member of a College;

(p) "Minister" means the Minister of Health;

(q) "Registrar" means the Registrar of a College;

(r) "registration" means the issuance of a certificate of registration respecting the practising of a health profession issued under an Act governing the health profession or group of health professions, which is required to be entered on the register of the appropriate College, and "registered" has a corresponding meaning;

(s) new; to correspond to other committee definitions

(t) HDA 1(1)(d); no substantive change

1.02

HDA 1(3); no change

1.03

New; the intention of this section is to link this Act to the Professional Acts. The Review believes the new wording better achieves the intent.

(s) "Registration Committee" means the registration committee of a health profession or group of health professions as required herein and established for that health profession or group of health professions in an Act referred to in Schedule A to this Act;

(t) "regulations" means the regulations made under section 27 of this Act or under an Act governing a health profession or group of health professions referred to in Schedule A to this Act.

1.02

Nothing in this Act shall be construed to require a hearing to be held within the meaning of the Statutory Powers Procedure Act unless the holding of a hearing is specifically referred to.

1.03

This Act is to be interpreted and applied in conjunction with the Acts governing the health professions or groups of health professions referred to in Schedule A to this Act.

Section 2 - Minister's Powers and Duties

2.01

HDA 2, no change

2.02

HDA 3(1) preamble, no substantive change. The Review considered one participant's suggestion that the preamble be amended to refer to the Minister's responsibility for administering a comprehensive province-wide health care system, and another participant group's suggestion that the preamble protect the right of a person to choose his or her individual health professional. However, it was felt that the existing wording accurately and succinctly states the thrust of the Minister's duties in relation to the regulation of health professions.

- *(a)* *HDA 3(10)(a); The Review initially proposed that the Minister be empowered to inquire into any matter related to the practice of a member or members, and that he or she be empowered to direct councils and committees to make such inquiries. The provision would have made it possible for the Minister to direct that a discipline hearing be held. Many participants asserted that the provision would unduly compromise independent self-governance and perhaps even undermine the procedural safeguards afforded members. The Review concluded that the objective of achieving accountability has been met to a significant extent by other measures and that this power is therefore unnecessary.*
- *(b)* *HDA 1(b); The Review initially proposed that the Minister's power to direct Councils to inquire into the state of practice in a locality or institution be extended to committees. Many participants objected to this for reasons similar to those stated in (a) above. The Review accepts the argument that the extension of the power to committees is unnecessary and that it might unduly interfere with self-governance. The words "Committee or Committees" have therefore been deleted.*
- *(c)* *[HDA 24(a), 49(a), 72(a), 93(a), 118(a)] & 3(1)(b), consolidated and rephrased to clarify the Minister's right to require information from sources other than registers. The proposed extension of the power to committees has been deleted.*

2.01

The Minister is responsible for the administration of this Act.

2.02

It is the duty of the Minister to ensure that the activities of health professions are effectively regulated and coordinated in the public interest, to have appropriate standards of practice developed and ensure that these are maintained and to ensure that the rights of individuals to the services provided by health professions of their choice are maintained and to these ends to,

- (a) deleted
- (b) inquire into or direct the appropriate Council or Councils to inquire into the state of practice of one or more health professions in any locality or institution;
- (c) review the activities of Councils and require them to provide such reports and information as the Minister requires for his or her purposes, including without limiting the above, information from the registers of the Colleges;

- *(d) HDA 3(1)(c), no change*
- *(e) HDA 3(1)(d), no change*
- *(f) HDA 3(1)(e), no substantive change*
- *(g) HDA 3(10)(f), no substantive change*
- *(h) HDA 24(b), 49(b), 72(b), 93(b), 118(b); The proposal to change "request" to "require" has been deleted. The Review accepts that "request" better reflects the proper balance between independence and accountability. Many participants pointed out the compelling moral authority of a request from the Minister and suggested that "request" better reflects the co-operative working relationship that exist between the Minister and Colleges.*
- *(i) HDA 24(c), 49(c), 72(c), 93(c), 118(c), no substantive change*

2.03

HDA 3(2), no change. While some participants have suggested that 60 days is too short a period to obtain the feedback from other professions required under the Professional Acts, the Review has decided that the 60 day period is reasonable and should be retained.

2.04

New. The section has been reworded for greater clarity. The Council's obligations are to carry out the Minister's request and submit a report to the Minister, both within the time period specified in the request. The provision does not apply to the making of regulations, which is covered by section 2.03. The reference to committees has been deleted.

(d) review proposals by a Council for changes in legislation or regulations of concern to that Council;

(e) consider the by-laws of Councils and provide advice and guidance to Councils with respect to the proposed implementation or revision of such by-laws;

(f) request a Council to make, amend or revoke regulations respecting any of the matters specified in its applicable Act;

(g) review legislation respecting the provision of health services by health professions;

(h) request Councils to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act and the Acts governing health professions referred to in Schedule A; and

(i) advise Councils with respect to the implementation of this Act and the Acts and regulations governing health professions or groups of health professions and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce regulations and procedures.

2.03

Where the Minister requests in writing that a Council make, amend or revoke a regulation under section 2.02(f) and the Council has failed to do so within sixty days after the request, the Lieutenant Governor in Council may make the regulation, amendment or revocation specified in the request.

2.04

The Council shall comply with a request made by the Minister under section 2.02 and shall submit a report to the Minister in relation thereto within the time specified by the Minister.

2.05

HDA 3(3), The Review initially proposed that the Minister's power to appoint advisory committees be expanded to permit individual advisors to be appointed. The Review now believes that the entire provision is unnecessary and undesirable. It was pointed out that the language in section 2.05 raised the possibility the Minister might appoint a committee and have it act in a matter listed under section 2.02. This would involve a ministerial advisor in a matter internal to a College, which was not the intent.
Under section 9 of the Ministry of Health Act the Minister has the power to appoint advisors, and the Advisory Council will be an additional source of advice.

2.05

deleted

2.06

HDA 5; This amendment clarifies the Minister's power voluntarily to reimburse Colleges for expenses they incur in complying with his or her requests, inquiries, requirements, activities and advice. The word "directions" has been deleted for consistency with section 2.02.

2.06

Where a College has incurred expenses in complying with the inquiries, requirements, activities, requests, and advice of the Minister under this Act, the Minister may, out of moneys appropriated therefor by the Legislature, make appropriate payments to reimburse the College in whole or in part for the expenses incurred.

2.07

HDA 7(1)(b) and new; The HDA now requires the Health Disciplines Board to submit an annual report, and Colleges currently publish annual reports as a matter of practice. The proposed reporting provision applies to the Health Professions Board, Colleges and the Advisory Council. In the Review's initial proposal, in order to obtain consistency and comparability between Colleges and over time, the Minister was authorized to set out the form and minimum content of reports. This provision has now been deleted, largely because of the lack of a convenient and appropriate legal mechanism for the Minister's instructions to be imposed. In the absence of such a provision it will be desirable for Colleges themselves to evolve a consistent method of reporting.

2.07

Each College, the Advisory Council and the Health Professions Board shall report annually to the Minister on its activities and financial affairs.

2.08

HDA 7(1)(b); The Act currently contemplates that only the Health Disciplines Board is subject to this provision. The Review proposes to include the Advisory Council as well.

2.08

The Minister shall submit the reports of the Advisory Council and the Health Professions Board to the Lieutenant Governor in Council and shall then lay the reports before the assembly if it is in session or, if not, at the next ensuing session.

Section 3 - Health Professions Regulatory Advisory Council

3.01	**3.01**
New, establishing the Health Professions Regulatory Advisory Council. Because the term "member" is defined to mean a member of a College, persons appointed to the Advisory Council are referred to "persons" or "appointees".	There is hereby established a body to be known as the Health Professions Regulatory Advisory Council which shall be composed of not fewer than five and no more than seven persons who shall be appointed by the Lieutenant Governor in Council on the recommendation of the Minister, and the Lieutenant Governor in Council shall designate one of the appointees to be Chairman and one to be Vice-Chairman.
3.02	**3.02**
New, prohibiting health professionals, public servants and persons who have been Government appointees to Councils from serving on the Advisory Council.	No person who is employed in the public service of Ontario or of any agency of the Crown in Ontario, or who sits or has sat on the Council of a College or who is or has been registered as a member of a health profession under any Act listed in Schedule A to this Act or its predecessor which governs the health profession shall be appointed to the Advisory Council.
3.03	**3.03**
New, dealing with appointment and re-appointment of persons to the Advisory Council.	The persons appointed to the first Advisory Council may be appointed for a term of one, two, or three years and thereafter appointments and re-appointments shall be for a term of three years.
3.04	**3.04**
New, dealing with any vacancy arising during the term of an appointee.	Every vacancy on the Advisory Council caused by the death, resignation or incapacity of an appointee, may be filled by the appointment by the Lieutenant Governor in Council of a person to hold office for the remainder of the term of such appointee.
3.05	**3.05**
New, to provide for remuneration and payment of appointees' expenses.	The appointees to the Advisory Council shall be paid such remuneration and expenses as are determined by the Lieutenant Governor in Council.
3.06	**3.06**
Deleted. The employment of a Secretary and other staff is now provided for in section 3.13.	deleted

3.07

New, setting out the objects of the Advisory Council. A small number of participants said that professional bodies and others should be permitted to refer matters to the Advisory Council. The Review continues to believe that access to the Advisory Council should be controlled by the Minister. However, any group or individual can request the Minister to make a referral and the Minister's powers to make referrals is set out in sections 3.09, 3.09A and 3.10. The section has been reworded in several respects.

(6)This object, which authorized the Advisory Council to advise on whether administratively clustered professions should be permitted to operate independently, has been deleted. The Review has concluded that the Colleges themselves are in the best position to make efficient administrative arrangements.

(7)This object has been reworded to clarify that the general advice provided by the Advisory Council must be requested by the Minister.

3.07

The objects of the Advisory Council are to provide advice to the Minister in relation to:

1. whether currently unregulated professions should be regulated in the public interest;
2. whether currently regulated professions need no longer be regulated in the public interest;
3. proposed changes in regulations or statutory amendments to this Act and the Professional Acts listed in Schedule A;
4. proposed changes to the scope of practice of any regulated health profession including the necessity of adding, deleting or amending licensed acts, and the appropriateness of proposed regulations in respect of licensed acts;
5. the continuing competence programs undertaken by Colleges;
6. deleted
7. any other matter affecting the regulation of the health professions referred to the Advisory Council by the Minister.

3.08

Deleted. As presented in the June 1988 proposals, parts of this section duplicated provisions appearing in section 3.09 and in sections 5.02 and 5.03 of the Professional Acts. New provisions contained in section 3.08 have been moved to section 3.09, and sections 5.04 and 5.05 of the Professional Acts have been added to confirm that a regulation is not invalid by reason of technical non-compliance with a procedural requirement. As well, the time requirement for the giving of notice has been deleted. A number of participants said they could not easily comply with the 15 days specified in the section. Since any proposed change desired by a Council must be circulated before it is passed into law, it appeared that a time requirement is unnecessary; the time taken will be dictated by the urgency of the need for the amendment.

3.08

deleted

3.09

New; The Registrar's duty to notify the Minister of a proposed change to the statutes or regulations has been moved to section 3.09 from section 3.08. At the suggestion of participants the section has been reworded to require the Minister to refer the proposal to the Advisory Council unless he or she "is satisfied" that the proposal is not made in good faith or is frivolous or vexatious.

3.09

Where the Council of a College listed in Schedule A to this Act proposes amendments to this Act, to the Professional Act under which it is established or to regulations passed pursuant to that Act, the Registrar of the College shall give written notice of the proposal to the Minister, and the Minister shall refer the proposal to the Advisory Council unless the Minister is satisfied that the proposal is not made in good faith or is frivolous or vexatious.

3.09A

New; setting out the Minister's duty to make referrals to the Advisory Council when requested to do so by persons or bodies other than Councils.

3.09A

The Minister shall refer to the Advisory Council a request for consideration of a matter referred to in paragraphs 1 to 4 of section 3.07 made by any person or body other than the Council of a College listed in Schedule A to this Act unless the Minister is satisfied that the request is not made in good faith or is frivolous or vexatious.

3.10

New; as was noted in the commentary accompanying section 3.07, a number of participants said that Colleges and professional associations should have direct access to the Advisory Council. The Review continues to believe that subject to sections 3.09 and 3.10, the Minister should control access.

3.10

The Minister may, in the Minister's absolute discretion, on his or her own motion or at the request of any person refer any matter listed in section 3.07 to the Advisory Council, along with such directions as the Minister deems appropriate.

3.11

New; Several participants suggested that the Advisory Council should be required to follow certain procedures, such as convening a minimum number of times during the year and notifying and receiving representations from all Colleges and other parties that might be interested in or affected by a matter referred to it. The Review believes that such requirements are undesirable; the Advisory Council should be free to establish its own procedures. It should be noted, however, that other provisions require all Colleges to be notified of proposed changes in legislation or regulations, and they are entitled to make submissions with respect to them to the Minister.

3.11

The Advisory Council shall sit at such times and places within Ontario as the Chairman may from time to time designate and shall conduct its proceedings in such manner as it may consider most convenient for the speedy and effectual dispatch of its duties.

3.12

New; to authorize the Advisory Council to engage the services of technical experts or consultants.

3.12

The Advisory Council may from time to time appoint one or more experts or persons having technical or special knowledge of matters or subjects within its jurisdiction or in respect of any particular matter or subject before the Advisory Council to assist it in a consultative or other capacity.

3.13

New; In the Review's June 1988 proposals section 3.06 authorized the Advisory Council to employ a staff, while section 3.13 established the office of Secretary, with the Secretary to be appointed by the Lieutenant Governor in Council. The Review now believes that the Secretary should be a servant of the Advisory Council, and that the Advisory Council should employ him or her as well as other staff, pursuant to the Public Service Act.

3.13

The Advisory Council may, pursuant to the Public Service Act, employ a Secretary and such other employees as it considers necessary for the performance of its duties under this Act.

3.14

New; setting out the Secretary's duties. In the June 1988 proposals the Secretary was required to perform duties assigned by statute, the Lieutenant Governor in Council, the Minister or the Advisory Council. In keeping with the principle that the Secretary is a servant of the Council, the section has been altered to provide that only the Advisory Council or statute may assign duties to the Secretary. Paragraph (d) has been deleted as it is axiomatic that the Secretary, as a servant of the Advisory Council, will obey its rules and directions. Paragraph (bb) has been added to provide a mechanism for persons interested in proposed statutory changes respecting the health professions to be notified of them.

3.14

It is the duty of the Secretary,

(a) to keep a record of all matters referred to the Advisory Council by the Minister;
(b) to have the custody and care of all records and documents of or pertaining to the business of or proceedings before the Advisory Council;
(bb) to provide written notice of any proposed change to an Act or regulations respecting a health profession to each person who files with the Secretary a written request to be so notified; and
(c) to carry out such other functions and duties as may be assigned to the Secretary by statute or the Advisory Council.
(d) deleted

Section 4 - Health Professions Board

4.01

HDA 6(1); Note that the name of the Health Disciplines Board is changed to the Health Professions Board. Section 1.01(b) defines "Board" as the Health Professions Board. Because the term "member" is defined to mean a member of a College, persons appointed to the Board are referred to as "persons" or "appointees".

4.01

The Health Disciplines Board is continued as the Health Professions Board.

4.02 - 4.02A

HDA 6(2); The Board has been increased in size from between five and seven persons to between twelve and twenty persons. The Review's initial proposal made provision for three vice-chairmen to be appointed instead of one. The proposal was related to section 4.06, which permits the Board to sit in panels, provided every panel includes the chairman or a vice-chairman. Both provisions were designed to accommodate the projected increase in the Board's workload.

One participant suggested that the chairman should have the power to appoint vice-chairmen pro tem for the purpose of particular hearings or reviews. The Review has accepted this suggestion, believing that this power will be more useful than increasing the number of permanent vice-chairmen. The section has been revised accordingly.

4.02

The Board shall be composed of not fewer than twelve and not more than twenty persons who shall be appointed by the Lieutenant Governor in Council on the recommendation of the Minister, and the Lieutenant Governor in Council shall designate one of the persons appointed to the Board to be Chairman and one to be Vice Chairman.

4.02A

The Chairman may designate appointees to be Vice Chairmen pro tem.

4.03

HDA 6(3), no substantive change

4.03

No person who is employed in the public service of Ontario or of any agency of the Crown, or who sits or has sat on a Council or who is or has been registered under any Act governing a health profession shall be appointed to the Board.

4.04

HDA 6(4); The section has been reworded to make the appointment and re-appointment of Board appointees consistent with appointment and re-appointment of persons appointed to sit on Council. The new wording makes it clear a person may be appointed or re-appointed for a term of less than three years.

4.04

The appointment of persons to the Board shall be for a term not exceeding three years, and a person whose appointment expires is eligible for re-appointment.

4.05 *HDA 6(5), no change*	***4.05*** Every vacancy on the Board caused by the death, resignation or incapacity of an appointee, may be filled by the appointment by the Lieutenant Governor in Council of a person to hold office for the remainder of the term of such appointee.
4.06 *New. This provision enables the Board to sit in panels of a minimum size of three. The section has been reworded slightly to clarify that it is the panel assigned by the Chairman that must be an uneven number. Section 4.07 deals with the consequences of persons dropping out.*	***4.06*** The Chairman shall appoint a panel of not fewer than three persons, and always an uneven number, to consider and determine proceedings before the Board, and each panel shall include the Chairman or a Vice-Chairman.
4.07 *New, setting out the quorum requirements for panels and providing that if a person drops out after the start of the hearing or review, the remaining persons may continue. The Review's June 1988 proposals specified that no person assigned to a panel may participate in a decision unless he or she was present throughout the proceeding and heard the evidence and argument. This provision has been deleted from section 4.07 because section 14.15, in which the same provision appears, applies to all proceedings of the Board by virtue of sections 11.03 and 13.08B.*	***4.07*** Three persons assigned to a panel under section 4.06 constitute a quorum for a hearing or review and all decisions require the vote of a majority of such persons presiding at the hearing or review, but where a person is unable to continue to act, the remaining persons may complete the hearing or review.
4.08 *HDA 6(7), no change*	***4.08*** The appointees to the Board shall be paid such remuneration and expenses as are determined by the Lieutenant Governor in Council.
4.09 *HDA 6(8), no change*	***4.09*** The Board may prescribe and adopt a seal.
4.10 *HDA 6(9), expanded to give the Board the power to hire independent investigators to investigate complaints not dealt with by Colleges within the prescribed time frame. The linkage to section 12.06 (misstated as section 12.05 in the initial proposal) indicates the Review's intent that investigations be conducted by the Board only when governing bodies have failed to do so within the prescribed time*	***4.10*** Such employees as are necessary to carry out the duties of the Board under this Act shall be employed under the Public Service Act and in addition, (a) in order to carry out investigations and compile a complaint record pursuant to section 12.06, or

limits. Permanent employees of the Board would continue to be employed under the Public Service Act. The Board may wish to retain investigators for the purpose of particular complaints; the duration of their contracts would probably be limited by the Board's obligation to dispose of the complaint within 120 days.

Words have been added to the section to clarify the Board's power to retain experts and professional advisors.

(b) to obtain expert or professional advice pursuant to section 4.13.

the Board may contract with such persons, not public servants, as the Board requires.

4.11

HDA 7(1)(a), clarifying the Board's power to conduct reviews as well as hearings

4.11

The Board shall conduct such hearings and reviews and perform such duties as are assigned to it by or under this or any other Act.

4.12

New, empowering the Board to extend certain limitation periods. The Review's June 1988 proposals clarified that the power did not apply to the limitation period for the commencement of a civil action against a health professional and added as a condition that the Board must be satisfied that no person will be unduly prejudiced by the extension. A number of participants voiced various concerns with the section. The Review continues to believe that the Board should have the power to extend limitation periods relating to complaints. However, the power has been deleted as it applied to registration hearings and reviews. The Review believes that applicants for registration can reasonably be expected to act within the limitation period. An applicant for registration who misses the time for requesting an appeal or review can make a fresh application for registration.

4.12

Notwithstanding any limitation of time imposed on

(a) a Complaint Committee's obligation to dispose of a complaint against a member, or
(b) a Registrar's obligation to transmit to the Board a record of an investigation of a complaint against a member pursuant to section 13.03, or
(c) the giving of a notice requiring a review by the Board pursuant to section 13.01,

where the Board is satisfied
(i) that there are prima facie grounds for granting relief,
(ii) that there are reasonable grounds for applying for the extension, and
(iii) that no person will be unduly prejudiced,

the Board may extend the above limitations of time either before or after the expiration of the time so limited, and may give such directions as it considers proper consequent upon such extension.

4.13

HDA 7(2); This section extends the obligation to disclose expert and professional advice obtained by the tribunal to all those directly affected in a registration hearing or review or a complaint review. As now revised, it is clarified that the obligation applies to all expert and professional advice, including legal advice.

It should be noted that disclosure of the complaint record compiled by a Board investigator under section 4.10 is handled in section 13, dealing with Complaint Reviews, and not by section 4.13.

4.13

The Board may obtain expert or professional advice, including independent legal advice, in connection with a registration hearing, complaint review or registration review but the advisor shall be a person independent of,

(a) the parties in the case of a registration hearing, or

(b) the complainant, the member complained against and the Complaints Committee in the case of a complaint review, or

(c) the applicant and the Registration Committee in the case of a registration review,

and the nature of all such advice shall be made known to the persons referred to in clauses (a), (b) or (c) in order that they may make submissions as to the advice.

4.14

HDA 14(2), deleted. The section is unnecessary because section 22 of the Statutory Powers Procedure Act, which contains the same provision, applies to proceedings of the Board.

4.14

deleted

Section 5 - College Objects

5.01

HDA 21(1), 46(1), 69(1), 90(1), 115(1), no substantive change. The section has been reworded slightly from the initial proposal to give express recognition to the fact that the College derives its obligations from both this Act and the profession-specific Acts.

5.02

This section has been reworded to emphasize the overriding aim of the governing body - to serve and protect the public interest - which is achieved by carrying out the listed objects

(a) *HDA 21(2)(a), 46(2)(a), 69(2)(a), 90(2)(a), 115(2)(a)*

(b) *HDA 21(2)(c), 46(2)(c), 69(2)(c), 90(2)(c), 115(2)(c) In the initial proposal, entry standards were grouped with standards for ongoing knowledge and clinical skill (reworded as "continuing competence") in paragraph (b). In this revision entry skills have been grouped with standards of qualification, to which they appear to be more closely related. Standards of practice appear here as well. (The order of paragraphs (b) and (c), as they appeared in the June 1988 proposals, has been reversed).*

(c) *HDA 21(2)(b), 46(2)(b), 69(2)(b), 90(2)(b), 115(2)(b) This paragraph was reworded in the Review's June 1988 proposals to reflect the increased emphasis on continuing competence assurance. At the suggestion of a participant, the paragraph has again been reworded to differentiate between standards of knowledge and skill and a College's continuing competence program.*

(d) *HDA 21(2)(d), 46(2)(d), 69(2)(d), 90(2)(d), 115(2)(d)*

(e) *HDA 21(2)(e), 46(2)(e), 69(2)(e), 90(2)(e), 115(2)(f)*

(f) *HDA 46(2)(f), 69(2)(f) A number of participants suggested that the prosecution of non-registrants for the performance of licensed acts should be included as an object in this section. Sections 27 and 29 of this Act deal with licensed act offences and penalties, including the offence of performing a licensed act without having authority to do so. In addition, section 22 authorizes a governing body to apply to the court for an injunction where it believes a person is not complying with any*

5.01

Each College is a body corporate without share capital with power to acquire, hold and dispose of real and personal property for the purposes of this Act, or the Act governing the health profession or group of health professions.

5.02

Each College shall, in order to carry out its duty to serve and protect the public interest, have the following objects,

(a) to regulate the practice of the health profession or group of health professions and to govern its members in accordance with this Act and the Act governing the profession or group of professions, and the regulations and by-laws passed thereunder;

(b) to establish, maintain and develop standards of entry, qualification and practice for the practice of the health profession or group of health professions;

(c) to establish, maintain and develop standards of knowledge and skill and programs to promote continuing competence among its members;

(d) to establish, maintain and develop standards of professional ethics among its members;

(e) to administer this Act and the Act governing the health profession or group of health professions and perform such other duties and exercise such other powers as are imposed or conferred on the College by or under any Act,

(f) such other objects relating to human health care as the Council considers desirable.

provision of this Act or the profession-specific Act. The prosecutorial activities of governing bodies are not currently regulated by the HDA but rather by other legislation, in particular the Provincial Offences Act. The Review has not proposed to alter this, and considers it to be unnecessary to include prosecuting non-registrants as an express object.

Section 6 - Council

6.01	***6.01***
HDA 23(1), 48(1), 71(1), 92(1), 117(1), no substantive change. The section has been reworded, reflecting the substitution of the term "College" for "Governing Body".	Every College shall have a Council which shall be its governing body and board of directors and shall manage and administer its affairs.
6.02	***6.02***
New, linking this Act to the profession-specific Acts. The composition of each Council and committee will be contained in the profession-specific Acts for flexibility and customization.	The composition of every Council shall be as provided for in the Act governing the health profession or group of health professions.
6.03	***6.03***
HDA 23(3), 48(3), 71(3), 92(3), 117(3), no substantive change	Persons appointed to a Council by the Lieutenant Governor in Council who are not registered under an Act governing a health profession or group of health professions shall be paid, out of moneys appropriated therefor by the Legislature, such expenses and remuneration as is determined by the Lieutenant Governor in Council.
6.04	***6.04***
HDA [23(4)], [48(4)], [71(4)], 92(4), [117(4)]; a three-year term provides lay members with an opportunity to acquire expertise in the operation of a College, and limits reappointment problems. A number of participants suggested that the section should expressly limit the number of times a member may be reappointed. The Review believes this is more appropriately a matter for the exercise of Government policy than a matter to be addressed by this Act. Current Government policy would suggest that no person will serve more than two consecutive full terms.	The appointment of every person referred to in Section 6.03 shall be for a term not exceeding three years, and a person whose appointment expires is eligible for reappointment.
6.05	***6.05***
HDA [23(7)], 48(7), [71(7)], [92(7)], [117(7)] *The term "during pleasure" has employment law consequences that, arguably, are inappropriate. The proposed wording allows the Council to dismiss a Registrar, but not without providing an appropriate severance package. Certain of the larger or busier Colleges may wish to appoint a Deputy Registrar. Provision has been made for this, where appropriate, in the profession-specific Acts.*	Every Council shall appoint and terminate at its discretion the appointment of a Registrar and such other officers and servants as may from time to time be necessary or desirable in the opinion of the Council to perform the work of the College.

Council's right to appoint other officers and servants has been retained although in practice the power is likely to be delegated rather than exercised directly.

6.06

HDA 23(8), 48(8), 71(9), 92(8), 117(8). Initially the Review proposed that a majority of public members must be present at Council meetings to constitute a quorum. This has now been deleted. A number of participants pointed out the inconvenience and undue expense that might result from the unexpected absence of a public member. The deletion also reflects the principle that no distinction be drawn between public and professional members of Councils.

6.07

New; opening Council meetings to the public is consistent both with the Review's intention to increase openness and accountability, and the widespread practice of governmental bodies holding open meetings.

The Review initially proposed that the manner by which a Council gives notice of its meetings to members and the public would be determined by the Minister. Upon further consideration, the Review thinks the manner of giving notice should be dealt with by each governing body through the exercise of the Council's regulation making power under the profession-specific Acts.

The addition of the word "reasonable" is intended to make explicit the obligation to give notice in a way that effectively reaches the College's membership and the general public. Methods of giving notice will likely include advertisements in a newspaper of general circulation in the province,

6.06

The majority of the persons appointed and elected to a Council constitutes a quorum.

6.07

The meetings of the Council of each College shall be open to the public, and reasonable prior notice shall be given to members and to the public.

individual notification to individuals and groups that have themselves notified the College of their desire to be notified of meetings, and mailings to members of the College.

6.08

New, setting out the grounds upon which the Council may close part or all of a meeting. The grounds initially proposed by the Review were worded differently and were somewhat narrower. A number of participants said they were too narrow, and suggested additional grounds for closing a meeting. The section has been revised to strike the proper balance between the public's right to attend Council meetings and the Council's need to transact certain business in private. The grounds for closing a Council meeting parallel the grounds for closing a Health Professions Board review or hearing and a discipline or fitness to practise hearing.

- *(b) At the suggestion of participants paragraph (b) has been reworded to follow the wording of the Statutory Powers Procedure Act.*
- *(c) A number of participants said that the word "would" created too high a standard. The Review agrees, and the word "may", which appears in paragraphs (a) and (b), has been substituted. However, the suggestion that the paragraph be extended to apply to "potential", "anticipated" or "reasonably apprehended" proceedings and suits has not been accepted, as the Review believes that this would introduce an overly expansive and uncertain element that cannot be justified by the risk of prejudice.*
- *(d) At the suggestion of participants the Council's need to discuss personnel matters and property acquisitions and to consult with its legal advisors in private has been recognized here.*

Language has been added to require the Council to note its reasons for closing a meeting in its minutes, and to empower it to ban publication and broadcasting of matters disclosed at a meeting.

Several participants said the Council should be empowered to impose a permanent ban on publication or broadcasting. The Review believes the phrase "for the time period specified by the Council" includes a time period of any duration necessary to protect the interests enumerated in the section.

6.08

Notwithstanding the general rule that meetings of the Council of each College shall be open to the public, where the Council is satisfied for reasons noted in the minutes, that

- (a) matters involving public security may be disclosed, or
- (b) intimate financial or personal or other matters may be disclosed of such a nature that the desirability of avoiding disclosure thereof in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that meetings be open to the public, or
- (c) that it may prejudice anyone involved in an actual criminal proceeding or in an actual civil suit or proceeding, or
- (d) where the Council is discussing personnel matters or property acquisition or is instructing or receiving opinions from the solicitors for the College,

the Council may exclude the public from the relevant parts of the meeting or make such other orders as are necessary in its opinion to prevent the disclosure of the matter, including banning publication or broadcasting of it in any form or medium for the time period specified by the Council.

While this may occasionally mean a permanent ban, we believe it is important for the Council to direct its mind to the limited period required by the circumstances.

Another participant said provision should be made for maintaining confidentiality when the Discipline Committee reports to the Council on discipline proceedings. The Review believes that provisions or orders made by the Discipline Committee under section 14.11 and 14.11A will prevent the inappropriate disclosure of identities or other disciplinary matters, and that it is unnecessary to make special provisions here.

A number of participants pointed out that the Council should be able to deliberate in camera on the question of whether or not to close a meeting. A provision enabling it to do so has been added as section 6.08A. Finally, at the suggestion of participants a provision enabling the Council to enforce its orders banning publication and broadcasting has been added to section 29.

6.08A

New, to enable a Council to deliberate in camera when it considers whether to exclude the public from a meeting or make an order banning publication or broadcasting of matters disclosed at a meeting. Alternatively, the Council may make an order banning publication or broadcasting of matters disclosed in it deliberations.

6.08A

When a Council deliberates whether to exclude the public from part or all of a meeting, whether to prohibit publication or broadcasting of a matter disclosed at a meeting or whether to make any other order as is necessary in its opinion to prevent the disclosure of a matter disclosed at a meeting, it may deliberate in camera or may make such other orders as are necessary in its opinion to prevent the disclosure of matters disclosed in its deliberations, including prohibiting publication or broadcasting of them in any form or medium for the time period specified by the Council.

Section 7 - Statutory Committees

7.01

HDA 29(1), 53(1), 76(1) & (2), 98(1), 122(1); The Review proposed that every Council establish six statutory committees and any other committees it considers necessary. Two of the listed statutory committees — fitness to practise and continuing competence — are new for most governing bodies. These committees reflect the increasing emphasis being placed on identifying and preventing deficiencies in practitioners, as distinguished from primarily responding to individual patient complaints.

The name of the continuing competence committee has been changed, at the suggestion of participants, by deleting the word "assurance" after "competence", in recognition that continuing competence cannot be absolutely assured. The revised name is also more consistent with the names of the other committees.

A number of participants raised the concern that increasing the number of statutory committees to six may be unduly onerous for smaller governing bodies in terms of expense and staffing requirements. It was suggested that the functions of the fitness to practise and continuing competence committees could be performed by the registration committee. The Review continues to believe that each of the statutory committees should be a separate entity with a discrete function. However, Councils may appoint individual members to more than one committee, thus limiting the need for a large Council. We think the additional expense and staffing due to function-specific committees can be kept to a minimum.

The section has also been changed to reflect the fact that the Professional Acts specify committee composition for each governing body.

7.01

Every Council shall establish and appoint as provided in the Act governing the health profession or group of health professions, the following committees,

(a) Executive Committee;
(b) Registration Committee;
(c) Complaints Committee;
(d) Discipline Committee;
(e) Fitness to Practise Committee; and
(f) Continuing Competence Committee,

whose composition shall be as provided for in the Act governing the health profession or group of health professions, and the Council may establish such other committees as it from time to time considers necessary.

7.02

HDA 29(2), 53(3), 76(3), 98(2), 122(2), no change

7.02

Where one or more vacancies occur in the composition of a Council or any committee, the persons remaining in office constitute the Council or committee so long as their number is not fewer than the prescribed quorum.

7.03

HDA 78(4); extended to all committees except the executive committee, whose duty to report is addressed in the new section

7.04

New; The Executive Committee must report to the Council but not, obviously, to itself. The Committee is prohibited from reporting on discipline and fitness to practise referrals, approvals for the Registrar to conduct an investigation, and interim orders (where the power to make an interim order exists under the Professional Act) until the Executive Committee has made a decision that no referral is warranted or the relevant disciplinary or fitness to practise proceedings are final. This is intended to prevent Council members who serve on these committees from having prior knowledge of the matter. The Executive Committee may, however, make a general, statistical report on these matters.

7.03

Every Committee referred to in section 7.01, other than the Executive Committee, shall submit an annual report of its activities to the Council and may make such other reports to the Council and Executive Committee as it considers appropriate.

7.04

The Executive Committee shall submit an annual report of its activities to the Council and may make such other reports to the Council as it considers appropriate, but it shall make no report other than a general, statistical report, with respect to,

(a) any referral to the Discipline Committee under section 14.05 or to the Fitness to Practise Committee under section 16.04,
(b) any approval for the Registrar to appoint an investigator under section 19.01, or
(c) any interim order issued pursuant to an Act governing a health profession or group of health professions

until the Executive Committee has made a decision that no referral is necessary or until the Discipline or Fitness to Practise Committee has made a decision.

Section 8 - Executive Committee

8.01

The proposed section 8.01 said that the composition of the Executive Committee would be provided for in the Professional Acts. The revision to section 7.01 makes this provision redundant and it has therefore been deleted.

8.02 - 8.02A

(HDA 30(3)), HDA 54(3), 77(2), 99(3), 123(3), A reporting requirement has been added to the provision, and it has been divided into two sections for greater clarity. The reporting requirement complements the ratification requirement and is intended to reinforce the principle that actions taken by the Council or on its behalf should be known to the public.

The wording of section 8.02A indicates that the reporting and ratification requirements apply to action taken by the Executive Committee on behalf of the Council between its meetings and not to its other statutory functions (e.g. making a referral to the Discipline Committee) or functions delegated to it pursuant to section 8.02. See also section 7.04.

8.03

HDA 36(6), 59(6), 82(5), 104(5), 129(5); As it appeared in the HDA, this provision clarified that the complaint mechanism was not the only route through which a member could be referred to the Discipline Committee; a referral could also be made by the Council or Executive Committee. The Review's proposal tied such referrals to cases where the Registrar, pursuant to section 19.07, had reported the results of an investigation.

A number of participants pointed out that the proposed section 8.03 was both redundant and inconsistent with section 14.05, which does not restrict Council and Executive Committee referrals to cases where the Registrar has reported the results of an investigation under section 19. A referral might be appropriate where no investigation has been conducted because the material facts are already known, perhaps as the result of another proceeding, e.g. an inquest. Some participants also said that it may be undesirable for Councils to refer members to the Discipline

8.01

deleted

8.02

Every Executive Committee shall perform such functions of the Council as are delegated to it by Council, the by-laws, this Act or the Act governing the health profession or group of health professions.

8.02A

The Executive Committee may take action upon any matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or by-law, but it shall report its action upon any such matter to the Council and its action must be ratified by the Council at its next ensuing meeting.

8.03

deleted

Committee because it results in members of the Discipline Committee having prior knowledge of the matter. They suggested that the Registrar should report the results of investigations to the Executive Committee or some other appropriate committee, and the Committee should refer the matter on.

The section has been deleted here because it is redundant. The substantive issues raised by participants are addressed in the context of section 14.05.

Section 9 - Membership

9.01

HDA 22(1), 47(1), 70(1), 91(1), 116(1); no substantive change. A number of participants asked whether provision would be made for categories of membership or specialties. This is addressed in the Professional Acts, where Councils are empowered to pass regulations establishing categories of membership or registration (e.g. active, inactive).

9.02 - 9.02A

HDA 22(2), 47(2), 70(2), 91(2), 116(2) and new; The Review's initial proposal, which made no substantive change to the HDA provision, preserved the College's continuing jurisdiction over a resigned member in respect of any disciplinary action arising out of the member's conduct while a member of the profession. The June 1988 proposal continued the College's jurisdiction in relation to incompetence and incapacity as well as professional misconduct, and clarified that the College may take action in relation to conduct occurring during a member's suspension. Participants' comments on the June 1988 proposal indicated the need for further clarification. Section 9.02 now addresses the continuing jurisdiction of the College over a member who resigns. Section 9.02A provides that the College may take action in relation to a member's professional misconduct, incompetence or incapacity even though proceedings are not commenced or completed until after the certificate of registration has been suspended, cancelled or revoked, and even though the conduct leading to the proceedings occurred during suspension of the member's registration.

9.03

HDA [22(3)], [47(3)], 70(3), 91(3), 116(3); The changes to this section correspond to those made to section 9.02, i.e. to clarify the continuation of the Governing Body's jurisdiction in respect of disciplinary action arising out of professional misconduct, incompetence or incapacity.

A single participant said two months notice of default and intention to cancel the member's certificate of registration is too lenient and that registration should automatically terminate on the last day of the registration year unless it has been renewed. The Review thinks two months notice is more reasonable in view of the drastic impact of cancellation on a member's livelihood.

9.01

Every person registered by a College is a member of the College subject to any term, condition or limitation to which the certificate of registration is subject.

9.02

A member may resign his or her membership by filing with the Registrar his or her resignation, whereupon his or her certificate of registration is cancelled, subject to the continuing jurisdiction of the College in respect of any action arising out of his or her professional misconduct, incompetence or incapacity.

9.02A

A member is subject to the continuing jurisdiction of the College in respect of any conduct that may give rise to allegations of professional misconduct, incompetence or incapacity notwithstanding that,

(a) the conduct occurred during a period of suspension of the member's certificate of registration; or
(b) proceedings in relation to the conduct are not commenced or completed until after the member's certificate of registration has been suspended, cancelled or revoked.

9.03

The Registrar may cancel a certificate of registration for non-payment of any prescribed fee after giving the member at least two months notice of the default and intention to cancel, subject to the continuing jurisdiction of the College in respect of any action arising out of his or her professional misconduct, incompetence or incapacity while a member.

Another participant said the section should specify a notice procedure. The Review thinks it is more appropriate for governing bodies to pass regulations providing for the giving of notice and procedures for re-registration.

Section 10 - Registration

10.01 - 10.01^1

The Review's initial proposal restructured but otherwise made no substantive change to the current HDA provision. A number of participants said the Registrar should have the power to refuse to refer to the Registration Committee an applicant who, while meeting the technical or "paper" requirements, is unsuitable for registration because of a history of improper, illegal or immoral conduct, or apparent incapacity. In revising section 10.01 to meet this concern, the Review tried to strike the proper balance between, on the one hand, enabling a governing body to screen out applicants who should not be registered, and on the other hand, protecting the right of qualified applicants to be registered. The issue is particularly troublesome in relation to "bad character", for good character is a relative term and it is difficult, if not impossible, to assess bad character and predict its consequences for future practice.

In June 1988, the Review proposed that the Registrar be empowered to refer to the Registration Committee those applicants whose actual qualifications or capacity are in doubt. In addition, the Professional Acts empower Councils to make regulations governing the requirements and qualifications for issuance of certificates of registration. This power currently exists under the HDA; an example of its exercise in relation to past professional conduct is section 15(1) of Regulation 448 (Medicine), which requires an applicant for a General medical licence to provide evidence that "there has been no finding of, and that there is no current proceeding involving an allegation of, professional misconduct, incompetence or being incapacitated, or any like finding or proceeding, in respect of the applicant's practice of medicine in any jurisdiction where the applicant practised medicine."

The Review has now accepted participants' submissions that doubts about "character" should be added to the grounds upon which the Registrar may refer an application to the Registration Committee.

Where the Registrar refers an application to the Registration Committee under section 10.01(b) or 10.01^1, the issues and facts will be reviewed by a statutory committee responsible to the Council and the applicant will have the right to a review or hearing by the Health Professions Board.

10.01

With respect to any applicant who
(i) has met the qualifications under the specific Act and regulations governing the health profession for which registration is sought, and
(ii) has passed such examinations as the Council may set or approve,

the Registrar shall either
(a) register the applicant, or
(b) where the Registrar has reasonable grounds for doubt as to the applicant's character, capacity, training, experience or education, notwithstanding that the applicant appears to meet the requirements and qualifications set out in the Act and regulations, or believes that terms, conditions or limitations ought to be attached to the applicant's registration, refer the application to the Registration Committee.

10.01^1

With respect to any applicant who has not met the qualifications under the specific Act and regulations governing the health profession for which registration is sought, or who has failed to pass such examinations as the Council has set or approved, the Registrar shall refer the application to the Registration Committee.

It was suggested that the Registrar should have the power to enter into an agreement with the applicant in which he or she agrees to specified terms, conditions or limitations being attached to his or her certificate of registration. The Registration Committee currently has this power. The Review believes it is preferable for the power to reside with the Committee alone, because of its accountability to Council and because appeal and review mechanisms are triggered by actions and decisions of the Committee.

Participants' comments on the June 1988 proposals have led to the further restructuring of the Registrar's registration powers to achieve greater clarity. Section 10.01 requires the Registrar to issue an unrestricted certificate of registration or refer to the Registration Committee every applicant who satisfies the technical requirements for registration, including successful completion of examinations. Section 10.01^{1} requires the Registrar to refer to the Registration Committee applicants who do not satisfy the technical requirements for registration.

10.01^{2}

New; requiring the Registrar to notify the applicant of the statutory grounds upon which the application for registration has been referred and of the right to make written submissions to the Registration Committee. The provision replaces part of section 10.02, now deleted, which required the Committee itself to give the applicant an opportunity to make submissions.

10.01^{2}

When the Registrar refers an application to the Registration Committee under section 10.01(b) or 10.01^{1}, the Registrar shall notify the applicant of the statutory grounds upon which the application for registration has been referred, and that the applicant may submit written submissions to the Registration Committee within a specified time.

10.01A - 10.01B

New; to clarify that Registration Committees may sit in panels, and to provide for a quorum in relation to the panels. As participants pointed out, the June 1988 proposals incorrectly referred to the hearing of the Registration Committee. This has been corrected.

10.01A

The Chairman of the Registration Committee may assign a panel of not less than three members of the Committee to determine the eligibility of applicants for certificates of registration of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

10.01B

Three members of a panel assigned under section 10.01A constitute a quorum for consideration of the eligibility of an applicant for a certificate of registration and all proposals of the panel pursuant to section 10.11 require the vote of a majority of members of the panel participating in the consideration.

10.02

New; consolidating sections 10.02 through 10.04. The Review is proposing that Registration Committees be empowered to review the "training, experience and continuing education" rather than the "qualifications" of a member. The requirement that the committee give the applicant an opportunity to make written submissions before it makes its decision has been moved to Section 10.012.

- *(a) HDA 32 (3), 56(3), 79(3), 101(3), 125(3)*
- *(b) (HDA 32(2), 56(2), 79(2), 101(2), 125(2)The Review's initial proposal left the existing HDA provision unchanged in relation to the setting or approving of additional examinations by the Council. One participant raised the issue of whether this function could or should be delegable to the Registration Committee. An analogous issue arose in Re Normand and Registration Committee of the Royal College of Dental Surgeons (1985), 50 O.R. (2d) 443. Section 25 of the HDA empowers the Council of the RCDS to make regulations governing the requirements and qualifications relating to the issuance of licences. The regulation made by the Council provided that these qualifications included the completion of examinations set or approved by the Council at the time of the application. The Council passed a resolution requiring the applicant to pass specified examinations. The Divisional Court held that the regulation, which empowered the Council to change licensing requirements in a manner other than by regulation was invalid, because the only manner in which the HDA authorized the Council to set or approve examinations was by regulation under section 25.*

  The Review believes there is merit in authorizing the Registration Committee to set or approve additional examinations for applicants, and the section has been revised accordingly. The Committee has knowledge of the facts of the case before it and is therefore in a good position to determine the appropriate examination. The intention here is for the Committee to set or approve an appropriate challenge examination, not for it to place unnecessary hurdles in the way of applicants. It would be reasonable for the Council to establish guidelines for the Committee to apply and these could include lists of suitable qualifying examinations. A additional safeguard is the applicant's right to request an appeal

10.02

The Registration Committee shall determine the eligibility of an applicant for a certificate of registration and may,

(a) direct the Registrar to issue a certificate of registration; or

(b) require an applicant to take and pass such additional examinations as the Registration Committee may direct and pay such fees therefor as the Registration Committee directs; or *or review of the Committee's decision to require him or her to pass a particular examination.*

- *(c) HDA 32(2), 56(2), 79(2), 101(2), 125(2)*
- *(d) HDA 32(4), 56(4), 79(5), 101(4), 125(4)*
- *(e) HDA 32(2), 56(2), 79(2), 101(2), 125(2); A few participants suggested that the word "any" in the first line of paragraph (e) implied that the Committee could exempt an applicant from all registration requirements, and that "any" should therefore be replaced by the word "a". The Review thinks "a" could equally be taken to mean a single requirement, and that the word "any" will permit the Committee to exempt an applicant from one or more requirements, as it deems appropriate. In response to the submission that there may be requirements that should never be waived, the ambit of paragraph (e) has been restricted, and Councils have been empowered to pass regulations specifying which registration requirements may not be waived.*
- *(f) HDA 32(3), 56(3), 79(3), 101(3), 125(3)*

Finally, in each case where the committee proposes to require the applicant to take further training or examinations, or proposes to refuse or restrict a certificate, or to exempt an applicant from one or more requirements, the committee must give written reasons. The reasons may give decisions precedent value, and will enhance the committee's accountability.

10.03 -10.04

These sections have been consolidated with 10.02

10.05

New; authorizing the Registration Committee to attach terms, conditions and limitations at the request of the applicant. The substitution of the word "applicant" for "member" in sections 10.05, 10.06 and 10.07 of the June 1988 proposal was intended to clarify that the Registration Committee's jurisdiction is in respect of applicants for registration while other Committees deal with members.

(c) require the applicant to take such additional training as the Registration Committee directs; or

(d) direct the Registrar to issue a certificate of registration subject to such terms, conditions and limitations as the Committee specifies, for an indefinite period or pending the demonstration of such standard of competence through the successful completion of such training, experience or courses of study in continuing education as the Committee specifies; or

(e) exempt an applicant from any registration requirement from which an applicant may be exempted pursuant to the regulations governing the health profession for which registration is sought;

(f) direct the Registrar to refuse to issue a certificate of registration,

and the Committee shall provide written reasons for each decision other than a decision under paragraph (a) to direct the Registrar to issue a certificate of registration.

10.03

deleted

10.04

deleted

10.05

The Registration Committee may,

(a) upon the request of the Registrar with the consent of the applicant for registration, or

(b) upon the request of an applicant for registration or member, *At the suggestion of participants the word "member" has been re-inserted into section 10.05 to indicate that members may apply to the Registration Committee for the placement of conditions or restrictions on their registration.*

by order attach such terms, conditions and limitations to the applicant's or member's certificate of registration as the Committee considers appropriate.

10.06

New; This section provides for applications for removal or modification of terms, conditions and limitations. One participant said it is unjust to require an applicant to apply for removal or modification of terms, conditions and limitations to the same committee that imposed them in the first instance. The Review continues to believe that the Registration Committee is the appropriate Committee to deal with such applications. Unsuccessful applicants have the right to request a review or appeal by the Health Professions Board.

10.06

An applicant whose certificate of registration has had attached to it a term, condition or limitation by the Registration Committee may apply to the Registration Committee for the removal or modification of the term, condition or limitation, and the Committee shall consider the request for removal or modification and any supporting material filed with it and by order may,

(a) refuse to grant the application;
(b) remove any term, condition or limitation previously attached to the certificate of registration; or
(c) remove any term, condition or limitation previously attached to the certificate of registration and attach other terms, conditions and limitations to the certificate of registration;

as the Registration Committee considers appropriate.

10.07

New; The Review initially proposed that a member not be permitted to apply for removal or modification of a term, condition or limitation on his or her certificate of registration sooner than one year from the Committee's original decision, and thereafter no more frequently than every six months. It was suggested that this is too inflexible and that it would be better for the Registration Committee to fix a minimum time period before an application may be made, as long as the applicant could re-apply at least every six months. This suggestion was adopted in the June proposal. It has been reworded slightly here for clarity.

10.07

No applicant referred to in section 10.06 may apply for the removal or modification of a term, condition or limitation attached to his or her certificate of registration sooner than a time fixed by the Registration Committee or six months after the rejection of an unsuccessful application, whichever is the sooner.

10.08

HDA 32(5), 56(5), 79(6), 101(5), 125(5), amended to require the Registrar to include information that the Fitness to Practise Committee directs him or her to note on the registers.

10.08

The Registrar shall maintain one or more registers in which is entered the name of every person to whom a certificate of registration has been issued, identifying the terms, conditions and limitations attached to the certificate of registration and shall note on the

10.09

New; This section was rewritten in response to participants' concerns that not all information about a member compiled by the College and stored on its register should be made available to the public. For example, personal information, academic transcripts and even limitations on registration removed more than a certain number of years previously might be kept confidential. It was the Review's expectation that regulations would specify what parts of the register would be available to the public. However, the majority of participants said the public information should be set out in the Act. Section 10.09 has been rewritten to respond to this preference. The language is intended to make it clear that the public has the right to certain information about health professionals, not the right to view the entire register.

10.10

New; to give the public the right to a copy of the information to which it is entitled under section 10.09. The wording is intended to indicate that a member of the public is entitled to a copy of information pertaining to a particular member. The section is not intended to create a statutory right to a copy of the entire register for research or commercial purposes.

10.11

HDA 11(1); expanded to clarify the range of committee proposals that trigger the right to a hearing or review by the Health Professions Board. The procedure has been changed in that it will no longer be necessary for the Registrar to send a copy of the Committee's proposal to the Board in every case. A copy need not be sent unless the applicant seeks a hearing or review.

register every revocation, suspension and cancellation of a certificate of registration and such other information as the Registration, Discipline, or Fitness to Practise Committee directs.

10.09

Any person has the right, during normal business hours, to obtain the following information from the register in relation to a member:

(a) business address and business telephone number;
(b) class of registration and specialist status, if any;
(c) terms, conditions or limitations attached to the certificate of registration, if any;
(d) the result of every disciplinary and incapacity proceeding, if any, concluding within three years prior to the date of preparation or updating of the register that has been recorded on the register pursuant to sections 14.19B and 16.08 respectively; and
(e) such other information as the Council by regulation specifies.

10.10

The Registrar shall provide to any person, upon payment of a reasonable charge therefor, a copy of the information referred to in section 10.09.

10.11

Where a Registration Committee proposes,

(a) to refuse to grant registration to an applicant;
(b) to require an applicant for registration to take and pass such additional examinations as the Registration Committee specifies in respect of the applicant;
(c) to require an applicant for registration to take and successfully complete such training as the Registration Committee specifies in respect of the applicant;

(d) to attach a term, condition or limitation to a certificate of registration;

(e) to refuse an application to remove a term, condition or limitation from a certificate of registration;

(f) to remove a term, condition or limitation from a certificate of registration and attach another term, condition or limitation to the certificate of registration,

the Registrar on behalf of the Committee shall serve notice of the proposal of the Committee, together with written reasons therefor, on the applicant.

10.12

HDA 11(2); The Review initially proposed to include in this section proceedings relating to failure to comply with continuing competence requirements, as well as disciplinary and incapacity proceedings. Re-registration after these proceedings is dealt with in section 18.

A number of participants pointed out the reference to continuing competence was inappropriate because continuing competence programs usually do not have direct penalties. Rather, a failure to comply with continuing competence requirements could lead to a disciplinary or fitness to practise proceeding. The Review agrees, and the reference has therefore been deleted.

In the initial proposal the conjunctive "and" in line 3 was inadvertently changed to the disjunctive "or". The word "and" has been restored. Finally, several participants pointed out that the phrase "for cause" is unnecessary, and it has therefore been deleted.

10.12

Section 10.11 does not apply to a refusal to grant registration to a person who was previously registered and whose registration was suspended or revoked as a result of disciplinary or incapacity proceedings.

10.13

HDA 11(3); the time limit for mailing or delivering a notice requiring a hearing or review by the Board is changed from fifteen to thirty days. The applicant is now required to send to the Registration Committee a copy of his or her notice requesting a hearing or review. This is necessary because the Review has proposed that committee proposals no longer be automatically sent to the Board. Receipt of the copy will cause the Committee to send a copy of its proposal and reasons to the Board, pursuant to section 10.14.

10.13

A notice under subsection 10.11 shall inform the applicant for registration that he or she is entitled to,

(a) a hearing by the Board, or

(b) a review by the Board of his or her application and documentary evidence in support thereof without oral evidence, *The word "such" has been replaced with the word "a" in order to clarify that the Board will determine the extent and type of review, not the complainant. The choice left to the complainant is between a hearing and a review.*

10.14

At the suggestion of a participant the section has been revised to require the Committee to send to the Board the records and documentary information upon which its proposal is based.

10.15

HDA 11(4) modified; to permit the Registration Committee to carry out its proposal when the applicant does not request a hearing or review. This provision makes section 11.01 redundant, and it has been deleted in this proposal.

10.15A

New. The section protects an applicant's right to a hearing or review where notice is given within the 30 days specified in section 10.13, but is not received by the Registration Committee within the 35 days specified in section 10.15.

if he or she mails or delivers within thirty days after the notice under section 10.11 is served on him or her, notice in writing to the Board requiring a hearing or review by the Board, as he or she specifies, and a copy thereof to the Registration Committee.

10.14

When a Registration Committee receives a copy of a notice to the Health Professions Board stating that an applicant for registration requires a hearing or review, it shall forthwith send to the Board a copy of its proposal, reasons therefor, and the records and documents upon which its proposal is based.

10.15

If written notice under section 10.13 is not received from an applicant for registration within thirty-five days after the notice under section 10.11 is served on him or her, the Registration Committee may carry out its proposal.

10.15A

Where an applicant for registration mails a notice requiring a hearing or review within the time specified in section 10.13 but the notice is received after the Registration Committee carries out its proposal pursuant to section 10.15, the proposal shall be deemed not to have been carried out.

Section 11 - Registration Hearings or Reviews

11.01

HDA 11(4); The Review initially proposed no substantive change to the existing provision, which required the Board to notify the Registration Committee that no hearing or review was required; the Committee could then carry out its proposal. The mechanism now provided requires the applicant for registration to notify the Registration Committee as well as the Board that a hearing or review is requested. If the Committee is not so notified within a specified time period, section 10.15 authorizes the Committee to carry out its proposal. Accordingly, section 11.01 is redundant and has been deleted.

11.01

deleted

11.02

HDA 11(5); One participant suggested that the Board should be restricted to considering documents that were presented to the Registration Committee when in made its decision, and that nothing new should be raised at the Board level. The proper remedy for an applicant with new information, according to this view, is to re-apply for registration. The Review believes the Board should have the discretion to consider new information, so that a qualified applicant can be registered expeditiously. If the Board is unable to make a determination because of the presence of significant new information, it may refer the matter back to the Registration Committee. However, the section has been reworded to indicate that oral evidence is not heard in a registration review.

Another participant pointed out that non-lawyers may have difficulty determining what evidence is admissible under sections 15 and 16 of the Statutory Powers Procedure Act, and suggested that provision be made for the Board to appoint independent legal counsel. In fact, section 4.13 explicitly empowers the Board to retain expert or professional advice, including legal advice, in connection with a registration hearing or review or a complaint review. The Board will not, of course, be required to do so.

One participant asked why the civil rules of evidence are not used for registration hearings as they are for discipline hearings. The evidence presented in registration appeals most often consists of course catalogues and transcripts from educational institutions around the world. It would be

11.02

The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the Statutory Powers Procedure Act, and pursuant to a review shall be based exclusively on the application for registration, and documentary evidence or matters that may be noticed under section 15 and 16 of the Statutory Powers Procedure Act.

unduly onerous and impractical to require either the applicant or the governing body to prove his, her or its case using the civil rules of evidence.

11.03 - 11.03A

HDA 11(6); At the suggestion of participants an explicit distinction has been made between hearings and reviews. For the most part, the same procedural rules apply to both. However, since a registration review consists of a review of documentary evidence and written submissions, and is not an oral proceeding, the provisions in section 14 dealing with open hearings are inapplicable. The commentary accompanying section 14 should be read to determine the nature and rationale of the applicable rules.

11.04

HDA 11(7);

- *(a)* *no change*
- *(b)* *clarified to indicate that the applicant must successfully complete the qualifying examinations or additional training. In respect of the power to set examinations see section 10.02(a).*
- *(c)* *HDA provision authorizes the Board to require the registration of an applicant where it determines that the applicant both meets the requirements for registration and that the Registration Committee has exercised its powers improperly. One participant suggested that the word "or" should be substituted for the word "and" in the second last line of the paragraph to enable the Board to require the registration of an applicant who, while technically deficient in some respect, is sufficiently qualified in the Board's opinion. The Review proposes instead that the word "substantially" be added where indicated and that the word "and" be retained. In other words, the Board will still be required to find that the Committee has exercised its discretion improperly, but it will not be precluded from requiring the registration of a applicant who is deficient in some minor, technical way.*

11.03

The provisions of sections 14.09 to 14.13 and 14.15 and 14.16 apply with necessary modifications to a hearing before the Board under this section.

11.03A

The provisions of sections 14.09 to 14.10A and 14.15 and 14.16 apply with necessary modifications to a review before the board under this section.

11.04

The Board shall, after the hearing or review,

- (a) confirm the proposed decision of the Registration Committee; or
- (b) require the Registration Committee to permit the applicant for registration to take qualifying examinations or additional training, or both, as specified by the Registration Committee, the successful completion of which is a condition for registration; or
- (c) require the Registration Committee to direct the Registrar to register the applicant for registration on any appropriate register subject to such conditions as the Board considers appropriate in cases where the Board finds that the applicant for registration substantially meets the requirements for registration and that the Committee has exercised its powers improperly; or

Another participant expressed the concern that if the Registration Committee can consider factors in addition to those stated in the Regulations, then the Board should be required to consider the same factors. Since all the factors that the Registration Committee may consider will be set out in regulation, and since the Board will have before it the Committee's reasons, the Review believes the Board will consider the same factors as the Registration Committee. However, we believe it would be inappropriate to require the Board to interpret or weigh the factors in the same way as the Committee.

(d) no change.

11.05

HDA 11(8); For consistency with related provisions the term "applicant for registration" has been substituted for "applicant", and the term "member" has been substituted for "registrant".

(d) refer the matter back to the Registration Committee for further consideration and the Board may make such recommendations as it considers appropriate in the circumstances.

11.05

The Registration Committee and the applicant for registration or member are parties to proceedings before the Board under this section.

Section 12 - Complaints

12.01

12.01

deleted

HDA 34(2), 57(2), 80(2), 102(2), 127(2), deleted; Section 12.01 prohibited overlapping membership between the Discipline Committee and the Complaints Committee. Section 14.10 prohibits a member of the Discipline Committee from having participated in any prior investigation of the matter before the Committee (except at a previous hearing of the Committee). Several participants pointed out that it is unnecessary to have both sections, and that section 14.10 is the better section because it permits maximum flexibility while protecting the legitimate interests of the member complained against. For governing bodies with Complaints and Discipline Committees large enough to have more than one panel, deleting section 12.01 should make the size of the overall Council and committees more manageable.

Complaints Process
When the Review's initial proposals were circulated, we said that there appeared to be a consensus among participants that defining "complaint" in the statute would be very difficult and would probably not help to solve the real problem of what to do with the many letters a governing body receives that raise issues of patient care. We noted that there is a widely accepted informal definition. A "complaint" must

- *be in writing,*
- *express concern about the care provided (or, as was pointed out by participants, other aspects of the professional relationship), and*
- *identify a registrant of the governing body in question.*

We proposed the following process be used in responding to correspondence. Any correspondence that meets the test set out above should automatically enter the Complaints Committee stream. If a decision is made to deal with an issue informally — for example, to explain the typical course of action in response to a patient "enquiry" — at an early stage of the interaction the person should be told of the statutory right to have any complaint sent to the Committee, and the complaint process should be explained. Our proposal attempted to protect the complainant's right to

access the statutory process while recognizing that many letters are written largely because of a lack of information or a misunderstanding and are appropriately dealt with informally.

Participants generally agreed with this approach and no attempt has been made to codify the informal process. Thus no formal process has been proposed for terminating complaints that are resolved through the intervention of administrative staff or by the patient and member themselves.

12.01A - 12.01B

New, to clarify that Complaints Committees may sit in panels, and to provide for a quorum in relation to the panels. The sections have been corrected by deleting the references to a hearing.

12.01A

The Chairman of the Complaints Committee may assign a panel of not less than three members of the Committee to consider and investigate a complaint of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

12.01B

Three members of a panel assigned section 12.01 constitute a quorum and all decisions made pursuant to section 12.04 require the vote of a majority of members of the panel.

12.02

HDA 35(1), 58(1), 81(1), 103(1) and 128(1)
opening words - The Review's initial proposal removed the reference to who makes complaints. While there was no evidence that this phrase has been used to prevent anyone from filing a complaint, it appeared to add nothing and might in the future cause problems. A number of participants said the reference should not be removed; it did no harm, and in the view of one participant, clarified the obligation to treat complaints from members and from the public in the same way and to use a different approach for Registrar's investigations. The Review has acted on these suggestions by reinserting the words "by members of the public or members of the governing body." The intention is to make it clear that a complaint can be made by anyone at all.

12.02

The Complaints Committee of a College shall consider and investigate complaints made by members of the public or members of the College regarding the conduct or actions of any member of the College, but no action shall be taken by the Committee under section 12.04 unless,

(a) a written complaint has been filed with the Registrar or the Registrar has referred a report to the Committee pursuant to section 28.01A(c) and the member whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or

Several participants raised the issue of anonymous complaints and suggested that they should be dealt with by the Registrar making use of the investigative powers under section 19. The Review agrees that this is the only practical way of dealing with such complaints and hence no provision has been made for them here.

The reference to section 12.02 in the June 1988 proposals has been corrected to section 12.04.

(a) The Review proposed no change to the HDA provision. A single participant said the complaint should be filed with the governing body rather than with the Registrar. We believe the responsibility to receive and process complaints is an important statutory function for the Registrar, which ought not to be removed. Moreover, the Registrar can exercise a discretion whether to treat the letter as a formal complaint or to attempt to resolve it informally, and whether to send the entire complaint letter to the member, or to extract and send the material allegations.

Two participants said it is unfair and unduly onerous to require a complaint to be in writing. However, the complaints process depends heavily on the exchange of submissions, and it is difficult to envisage how the system would work without a written complaint. By analogy, we note that complaints under the Ombudsman Act must be in writing. Individuals unable to write a letter of complaint themselves may obtain assistance from family, friends, or social agencies.

Since the Complaints Committee may also investigate and consider reports referred to it by the Registrar pursuant to section 28.01A(c), a reference to such referrals has been added to paragraph (a).

Another participant said the section should require that the member be given at least 30 days to respond to the complaint. In our view this would make it more difficult for governing bodies to meet the 120 day time limit for disposing of complaints. However, governing bodies that are able to give their members more than

representations he or she may wish to make concerning the matter; and

(b) the Committee has examined or has made every reasonable effort to examine all records and other documents reasonably relevant to the complaint.

two weeks to respond while still disposing of the complaint in time are free to do so under the section.

(b) The Review proposed to amend the current provision, which requires the Committee to examine all records and other documents relating to the complaint, by limiting the examination to records and documents "reasonably relevant" to the complaint. It appeared to the Review that the present standard is unduly onerous. The responses of a few participants indicated a misunderstanding of the intent of the change, which is to give the Committee a discretion to limit the range of its examination of records and documents. We continue to think this is appropriate.

One participant said the paragraph should be amended to require the Committee's investigation to include interviewing relevant witnesses. In both the current and proposed systems, interviews may be conducted, although most Committee investigations focus primarily on records and other documents. If this discloses a problem, the member will be referred to the appropriate committee for a full investigation and hearing.

12.03

Section 12.03 of the Review's initial proposal included a new one-year limitation period on making complaints. A number of participants, both those that were in favour of having a limitation period in principle and those that were not, pointed out various problems with the proposal. In view of the significant difficulties inherent in any limitation period, and the fact that major problems have not been experienced under the current system, the proposed limitation period has been deleted.

12.04

HDA 35(2), 58(2), 81(2), 103(20), 128(2)

(a) The Review initially proposed that "specified allegations" of misconduct or incompetence rather than "matters" be referred to the Discipline Committee. It was felt that this would require the Complaints Committee to turn its mind to the details of the charge rather than leave them for counsel and staff to formulate later and that this was a fairer process. Although a

12.03

deleted

12.04

The Committee in accordance with the information it receives may,

(a) direct that any specified allegation of professional misconduct or incompetence on the part of a member relating to the complaint be referred to the Discipline Committee or that the member be referred to the Executive Committee for the purpose of incapacity proceedings under section 16; or *number of participants responded that the proposal might make it more difficult for Complaints Committees to write decisions and that drafting mistakes might be used to the tactical advantage of members, the proposal was restated in June 1988. In commenting on the June 1988 proposal, several participants pointed out that the language would permit the Committee to direct an allegation unrelated to the original complaint. This was not the Review's intention, and the phrase "related to the complaint" has therefore been added.*

(b) The Review continues to think that its proposal will be fairer to members without creating a significant burden for Complaints Committees. Committee members will develop expertise in writing allegations and may consult with counsel.

(c) In response to the Review's initial proposals, several participants suggested that there be an explicit power to require a member to attend for admonishment. This power appeared in paragraph (c) of the June 1988 proposals. It was suggested in response that the term "caution" would be more appropriate, and that the Complaints Committee should have the option of cautioning the member in writing or of requiring the member to attend for the caution. Paragraph (c) has been revised in accordance with these suggestions.

(d) Some participants suggested that all the possible kinds of action that may be taken by a Complaints Committee should be listed. The Review has not adopted this suggestion for several reasons. First, there is no evidence of significant abuse of the existing general power. Secondly, governing bodies historically have required the flexibility to fashion appropriate remedies. Thirdly, it would be necessary to ascertain in advance which professions require which remedies, with the risk that some committees would be left with inadequate powers to deal with practical problems.

12.05

HDA 35(3), 58(3), 81(3), 103(3), 128(3); amended to require written reasons whenever the Complaints Committee disposes of a complaint without referring it under section 12.04(a). The Review believes reasons may prevent unnecessary reviews and that they enhance the governing body's accountability to and credibility with the public.

(b) direct that there be no referral under clause (a); or

(c) caution the member and, where appropriate, require the member to attend for the caution; or

(d) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Act, the Act governing the health profession or group of health professions of which the person complained of is a member, or the regulations or by-laws.

12.05

The Committee shall give its decision in writing to the Registrar for the purposes of section 12.07 and, where the decision is made under section 12.04(b), (c), or (d), its reasons therefor.

12.06

HDA 9; This section has been amended to increase the total time available to a Complaints Committee to deal with a complaint from receipt to disposition to 120 days from 60. The Review suggested that, whenever a complaint is received, the Registrar should send an information packet on the process to the complainant, and that this time constraint on the governing body and the complainant's remedy should be set out in the package. If the complainant notifies the Health Professions Board of a failure by the Complaints Committee to dispose of the matter within 120 days, the Committee will be given a further sixty days from the Board's request to complete its task, after which time the Board has 60 days to conduct the investigation itself. A few participants said the time frame set out in the section is too long, while others said it is too short. The Review believes that the proposed time frame is appropriate, and notes that the Board may under section 4.12 extend the time within which the Complaints Committee must dispose of a complaint. At the suggestion of a participant language has been added to the section to indicate that the Complaints Committee must report its decision within sixty days of a request by the Board.

12.06

Where a complaint respecting a member of a College has not been disposed of by the Complaints Committee of the College within one hundred and twenty days after the complaint has been filed with the Registrar, the Board upon application from the complainant or member complained against may require the Complaints Committee to make an investigation and, where the investigation of the complaint has not been undertaken, completed and reported on to the Board by the Complaints Committee and the Complaints Committee's decision and reasons disposing of the complaint have not been sent to the complainant, the member and the Board within sixty days of the Board's request, the Board shall undertake such investigation and possess all the powers of investigation that the Complaints Committee or the Registrar has in this Act, and shall dispose of the complaint within a further sixty days.

12.07

HDA 8(1); amended to require the Registrar to give notice of the right of review to the member as well as to the complainant. The concluding words of the section have been added at the suggestion of a participant, who noted that it would be inappropriate to give notice where there is no right of review (i.e. when a referral has been made). The manner of giving notice has been deleted. Section 23 sets out the manner of giving notices under the Act.

12.07

Where a Complaints Committee of a College has made a disposition of a complaint respecting a member in accordance with this Act, the Registrar of the College shall send to the member and to the complainant, a copy of the written decision made by the Complaints Committee and reasons therefor, if any, together with notice advising the member and the complainant of the right of review under section 13.01, where such right of review exists.

Section 13 - Complaint Reviews

13.01

HDA 8(2); The Review proposed several changes to this section. The words "specified allegations of professional misconduct" were substituted in paragraph (a) for "a matter". Although a number of participants disagreed with the proposal, for reasons stated in the commentary accompanying section 12.04, the proposal has been retained. The words "or incompetence" were inadvertently omitted from paragraph (a) in the June 1988 proposals.

(b) The Review proposed a new exception to the right of review: when a member is referred to the Executive Committee in respect of his or her capacity to practise. This, like the exception in paragraph (a), was based on the principle that a review should be available only when the decision or action that is the subject of the review finally disposes of the matter. One participant felt there should be a right of review even where the Complaints Committee makes a referral. This suggestion has not been adopted because it could subject the member and the governing body to what are in effect two preliminary inquiries.

Another participant said the grounds for seeking a review should be circumscribed in the section because of the nature and expense of reviews. The Review believes this would be inappropriate; however, the Board has been empowered, in section 13.05, to refuse to conduct a review where it believes that the request is frivolous, vexatious, made in bad faith, or otherwise an abuse of process.

The wording of the section has been changed to clarify that a review may be requested in respect of the complaint committee's investigation, its decision, or both.

Finally, the period in which a review may be requested has been extended from 20 to 30 days, running from the time of receipt of the decision and notice given under section 12.07.

13.01

A complainant or the member complained against who is not satisfied with the investigation conducted or the decision made by a Complaints Committee disposing of a complaint, except

(a) a decision to refer specified allegations of professional misconduct or incompetence to the Discipline Committee, or
(b) a decision to refer a member to the Executive Committee in respect of the capacity of the member,

may, within thirty days of receipt of the written decision and notice request the Board to review the investigation or decision or both.

13.02

New; to allow the personal representative of a complainant who is no longer able to act for him/herself to pursue the complaint to its final disposition. Currently, the personal representative might be required to file a new complaint

13.02

If a complainant is unable to act because of death or incapacity the rights of the complainant are transferred to the complainant's personal representative.

causing additional expense and work for all persons involved. One participant suggested that a mechanism be established for appointing a personal representative. We believe the selection or recognition of the appropriate personal representative should be left to the discretion of the Board and the parties involved in the matter.

13.03

HDA 8(2), The requirement that the Registrar forward the record has been separated from the section setting out the circumstances in which a review may be requested. One participant suggested that the Registrar should be given 30 rather than 15 days to transmit the record. We have left the time period at 15 days, but it may be extended by the Board under section 4.12.

13.04

New; provides explicit authority for a request for a review to be withdrawn. The Review initially proposed that a complainant could deliver a notice of intention to withdraw the request for a review up to 10 days before the Review, and that the Board could in its discretion either accept the notice or proceed with the review. The 10-day time limit has been deleted at the suggestion of participants; clearly the Board will have to expedite withdrawal notices given shortly before the time set for the review.

It was pointed out that the withdrawal provision should apply to a member who has requested a review as well as to a complainant. This has been accomplished by replacing the word "complainant" with the words "the person who requested the review".

The Review has also accepted the submission that the Board should not have the discretion to override a complainant's or member's decision to withdraw a request for a review.

13.05

New; The Review proposed that the Board should have the authority to refuse a request for a review where "in its opinion" the request is frivolous, vexatious, made in bad faith or is otherwise an abuse of process. A number of complainants expressed concern about the Board in effect

13.03

Upon receipt of a request to review under section 13.01 the Board shall require the Registrar of the College to transmit to the Board within fifteen days of the Board's request, a record of the investigation and all such documents and things upon which the decision was based.

13.04

The person who requested the review may deliver to the Board a notice of withdrawal of the request, whereupon the Board shall accept the withdrawal and shall notify the respondent.

13.05

The Board shall review an investigation or decision of a Complaints Committee when a request for review is made pursuant to section 13.01 unless, pursuant to the motion of a party or the Board itself, the Board is *pre-screening reviews. While the Review believes, on balance, that the Board should have the right to screen complaints, we recognize the importance of maintaining access to Board review. We have therefore substituted what we believe to be stronger language, requiring that the Board be "satisfied" that the request is frivolous, vexatious, made in bad faith or otherwise an abuse of process.*

13.06

New; to provide a procedure when the Board proposes to dismiss a request for review under section 13.05. The section has been revised at the suggestion of participants to impose a time limit on written submissions and explicitly to require the Board to consider the written submissions prior to making its decision. The section has also been clarified by addition of the phrase "with respect to the Board's proposal".

13.07

New; obligating the Board to disclose the record created at the Complaints Committee stage. The Review expects that disclosure of the records would be the normal course, but recognizes that this is not always desirable. In the initial proposal the Review invited participants to comment on the factors that should be considered in determining not to release a record. In proposing the factors set out in paragraphs (a) to (d) these comments have been considered. Factors (a) to (d) are the same as those that are considered by the Discipline Committee in deciding whether to hold part or all of a hearing in camera. Paragraph (a^{1}) is intended to cover situations where the Board believes information, such as the identity of authors of expert reports, must be withheld to protect the complaint handling process. Paragraph (b) is sufficiently broad to cover situations where the Board believes disclosure would be detrimental to the physical or mental well-being of the complainant or member. The word "would" in paragraph (c) has been changed to "may" at the suggestion of participants who said that "would" imposed too high a standard.

Section 21.03 of the Act provides that no record or document given by any person for the purpose of or in the course of a review is admissible or may be used in evidence in any

satisfied that, the request for review is frivolous, vexatious, made in bad faith or otherwise an abuse of process.

13.06

Where the Board proposes to dismiss a request for review on the grounds that it is frivolous, vexatious, made in bad faith or otherwise an abuse of process pursuant to 13.05 the Board shall notify all parties to the complaint review of the proposal, and of their right to make written submissions with respect to the Board's proposal within thirty days, and the Board shall, after considering the written submissions, make its decision on the motion, and distribute copies of its reasons to each party.

13.07

Prior to a review held pursuant to section 13.01 of this Act, the Board shall disclose the contents of the documents provided to it by the Registrar pursuant to section 13.03, to the complainant, the member complained against, and the Complaints Committee except where the Board is satisfied that,

(a) matters involving public security may be disclosed, or

(a^{1}) it may undermine the integrity of the complaint investigation and review process;

(b) intimate financial or personal matters or other matters may be disclosed of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that disclosure be made, or

(c) it may prejudice anyone in an actual criminal proceeding or an actual civil suit or proceeding, or

(d) it may jeopardize the safety of any person,

in which case the Board may refuse to disclose part or all of the documents provided by the Registrar.

lpractice or negligence action against a member.
rticipants should bear in mind that the Health Disci-
nes Board is a scheduled institution under the Freedom
Information and Protection of Privacy Act, 1987. This
gives every person a right of access to records in the
tody or under the control of scheduled institutions, and
ablishes the principle that as much of the records should
disclosed upon request as possible. There are a number
xemptions to the disclosure requirements of the Act, and
sonal information can, in general, be disclosed only to
person to whom the information relates.

07A

v; to make the disclosure requirements of section 13.06
plicable to the record compiled by a Board investigator
en the Board is investigating a complaint under section
06 because a governing body has failed to do so within
specified time period.

08 - 13.08A

A 8(2) and new; In the initial proposal, the Review did
suggest any statutory language but proposed that the
ting provision be amended to clarify the Board's proce-
e. It was suggested by the Review that the Board would
ew either or both of the adequacy of the investigation
ducted by the Complaints Committee and the reasona-
ess of the decision after giving the complainant an
ortunity to state his or her complaint and the member an
ortunity to state his or her answer. The Board might
questions of the complainant, the member, and the
erning body representative if necessary, and might allow
complainant and member an opportunity to respond to
issues arising from the question.

13.07A

The provisions of section 13.07 apply with necessary modifications to the complaint record compiled by the Board when it conducts an investigation pursuant to section 12.06, and to the documents and things upon which the Board's decision was based.

13.08

The Board shall review either the adequacy of the investigation conducted or the reasonableness of the decision made by the Complaints Committee, or both, after giving the person requesting the review an opportunity to make submissions on either or both of these matters, and the opposite party an opportunity to state his or her answer thereto.

13.08A

During the Review the Board may ask questions of the complainant, the member, and the representative of the College and may permit the complainant and the member to make representations with respect to the issues arising from the questions, but the complainant and the member may not examine or cross-examine each other or the representative of the College.

In commenting on this proposal, a few participants asked that the nature of a review be clarified to distinguish it from a hearing de novo or an appeal.

The Review's proposal has been incorporated into sections 13.08 and 13.08A. Wording has been chosen to clarify that the complainant attends the review as an advocate of his or her position, and not as a witness giving evidence, and that no cross-examination may take place.

At the suggestion of a participant responding to the June 1988 proposal, section 13.08 has been reworded in recognition that either a member or a patient may request a review, and the phrase "to make submissions" has been substituted for "to comment".

A few participants said that the Complaints Committee should be given the right to make submissions to the Board. The Review believes that the "lis" or contest at a review is between the complainant and the member, and that the complaint record and decision should be sufficient to set out the Committee's position. If the Board considers it necessary to question College representatives not voluntarily appearing at a review, it may consider exercising its powers under the Statutory Powers Procedure Act.

13.08B

New; Together with sections 13.08 and 13.08A this section sets out the procedural rules applicable to complaint reviews. Among the most important provisions is the rule that a review must be held in public unless one of the enumerated grounds for closing it exists. Currently, the Board has the discretion to decide to hold a review in public but there is no onus on it to do so. The Board will have the power to control publication and broadcasting of matters disclosed at reviews, including the identity of the parties. This application of the principle of openness is balanced by section 21.03, which prevents the use of evidence divulged in reviews in civil suits or proceedings against members.

13.08B

The provisions of sections 14.10A to 14.12, 14.15 and 14.16 apply with necessary modifications to proceedings before the Board under this section.

13.09

HDA 10(1), amended to clarify that the Board may confirm part of the committee's decision while returning part to the committee for further action, and to clarify that the Board may combine dispositions. The dispositions currently available to the Board are unchanged.

A few participants expressed concern with the principle of a lay body having authority to override decisions of a professional body. However, the Review believes this principle is integral to maintaining the balance between professional expertise and lay input; this of course is an important characteristic of the Ontario model of self-regulation. However, the Review has empowered the Complaints Committee to request the Registrar to conduct an investigation for it. The Review believes that this power of the Complaints Committee ought not to be included in the range of dispositions available to the Board and the section has been amended accordingly. It should be noted that the dispositions available to the Complaints Committee have been changed slightly in this proposal. In particular, the Committee is now specifically empowered to "caution" rather than "admonish" the member and where appropriate, to require the member to attend for the caution.

13.09

The Board may, after investigation or review of a complaint under section 12.06 or 13.01, refer the complaint to the Complaints Committee and the Board may make one or more of the following dispositions:

(a) confirm all or part of the decision, if any, made by the Complaints Committee;

(b) make such recommendations to the Complaints Committee as the Board considers appropriate;

(c) require the Complaints Committee to take such action or proceedings as the committee is authorized to undertake under this Act or an Act governing a health profession or group of health professions, except that the Board shall not require the Complaints Committee to request the Registrar to conduct an investigation pursuant to section 19 of this Act.

13.10

HDA 10(3), amended to require the Board to send its decision and reasons to the Complaints Committee, as well as to the complainant and member.

13.10

The Board shall give its decision and reasons therefor in writing to the complainant, the member complained against and the Complaints Committee.

Section 14 - Discipline

14.01

HDA 36(3), 59(3); The Review initially proposed a minimum panel size of five, of whom two would be required to be public members and one a member of Council. A number of participants said a panel of five would be too large for smaller governing bodies to manage and suggested that there should be flexibility in panel size. The Review has accepted these submissions in proposing a panel size of between three and five.

Several participants also disagreed with increasing the proportion of public members, on the ground that this might impair the Committee's status as an expert tribunal and might make it more difficult to manage the anticipated workload. In view of these submissions and the reduction in permissible panel size, the number of mandatory public members has been reduced to one. The consequences of the public member dropping out of the panel after the commencement of the hearing are addressed in section 14.03.

There was general agreement with the provision that one member of the panel must be a member of Council. This requirement will ensure consistency and accountability in governing bodies that appoint non-Council members to serve on committees.

Because the term "registrant" is not a defined term, the term "member of the governing body" has been substituted.

14.02

HDA 36(4), 59(5), 129(2); The Review initially proposed no substantive change to the existing HDA sections, which provide that three members constitute a quorum, of whom one must be a public member. In this proposal, the requirement that one of the three members be a public member has been deleted. The significance of the public member's absence is now addressed in section 14.03. Since, by virtue of section 14.01, a panel will have one public member, professional members will always constitute the majority of a quorum of three. However, it is possible for the quorum to lack a professional member who is also a member of Council, e.g. where a panel of five loses two professional members, one of whom is the member of Council. Because "member" is defined to mean a College member, and the

14.01

The Chairman of the Discipline Committee may assign a panel of not less than three and not more than five members of the Committee to hold a hearing of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, and of whom at least one shall be both a member of the College and a member of Council.

14.02

Three persons assigned to a panel under section 14.01 constitute a quorum for a hearing and all decisions require the vote of a majority of such persons presiding at the hearing.

panel must include a person appointed to the Council by the Lieutenant Governor in Council, the term "persons" has been substituted for "members" to refer to such persons throughout section 14.

14.03

HDA 36(5), 59(4), 82(3), 104(4), 129(3); Initially no substantive change was proposed. The section now requires the public member of the panel to be present at the commencement of the hearing, but permits the hearing to continue if the public member subsequently drops out.

14.03

A panel assigned under section 14.01 shall not commence a hearing in the absence of a person appointed to the panel who is a person appointed to the Council by the Lieutenant Governor in Council, but where such person is unable to continue to act, the remaining persons may complete the hearing notwithstanding his or her absence.

14.03A

New; requiring the Discipline Committee to make reasonable efforts to appoint a panel of French-speaking persons, to conduct the hearing in French, when requested by the member. The Lieutenant Governor in Council may appoint a French-speaking member to the panel at the request of the Committee. The provision is consistent with the French Language Services Act. The provision also applies to proceedings of the Fitness to Practise Committee by virtue of section 16.08. Where a French-speaking panel cannot be struck, the Committee may accommodate the member in other ways, such as simultaneous translation of the hearing.

14.03A

(1) A member whose conduct or competence is being investigated in proceedings before a Discipline Committee may, by giving reasonable prior notice in writing to the Registrar, request that the hearing be conducted in the French language.

(2) The Registrar, upon receipt of a notice given under subsection (1), shall notify the Chairman of the Discipline Committee of the member's request, and the Chairman shall appoint a panel of French-speaking persons to conduct the hearing in the French language.

(3) The Lieutenant Governor in Council, upon the written request of the Discipline Committee, shall appoint a French-speaking person who is not and never has been registered as a member of a health profession or a person who sits or has sat on the Council of a College to sit on a panel referred to in subsection (2).

(4) Where the Chairman of the Discipline Committee has made a reasonable effort to appoint a panel of French-speaking persons to conduct a hearing in the French language, and has been unable to do so, the provisions of this section are not binding on the College.

14.04

HDA 37(10), 60(10), 83(11), 105(10), 130(10), no substantive change

14.04

Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a person sitting for the

14.05

HDA 36(6), 59(6), 82(5), 104(5), 129(5), amended to remove the Council's power to direct the Discipline Committee to hold a hearing. As was pointed out by participants, whenever a Council refers a practitioner to the Discipline Committee, it is likely that some members of every discipline panel will have knowledge of the matter prior to the hearing. The Review recognizes that this is less than ideal. The Review believes the Executive Committee can adequately discharge the responsibility of referring practitioners to discipline, and that this, together with carefully drawn committee reporting requirements (see sections 7.04 and 8.02A) will avoid the problem of Discipline Committee members having prior knowledge of the matter.

14.06

HDA 37(1), 60(1), 83(1), 105(1), 130(1), amended in paragraph (a) to delete the reference to the Council, because of the deletion of Council referrals from section 14.05. The word "specified" has been added in paragraph (a) to describe the allegations heard and determined by the Committee. Paragraph (b) has been revised to delete the second and unnecessary reference to allegations directed to the Discipline Committee by the Complaints Committee, and to describe more precisely the matters referred under section 18.03

14.06A

New; permitting the Discipline Committee to correct clerical and other minor errors in the notice of hearing. It was submitted that the provision was necessary because of the requirement that the Complaints Committee specify the allegations of professional misconduct. Without the corrective power, an insignificant error in specifying the allegations might spoil the discipline proceedings. It is not intended that the section be used to change or add to the charges against the member.

hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the person shall be deemed to remain on the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his or her term of office had not expired or been terminated.

14.05

Notwithstanding section 12.04, the Executive Committee may direct the Discipline Committee to hold a hearing and determine any specified allegation of professional misconduct or incompetence on the part of a member.

14.06

The Discipline Committee shall,

(a) when so directed by the Executive Committee or Complaints Committee, hear and determine specified allegations of professional misconduct or incompetence against any member;
(b) hear and determine applications referred to it under section 18.03; and
(c) perform such other duties as are assigned to it by the Council.

14.06A

The Discipline Committee may at any time permit the amendment of the notice of hearing to correct clerical or other minor errors where it is of the opinion that it is just and equitable to do so, and may make such orders as it considers necessary to prevent prejudice to the member.

14.07

HDA 37(2), 60(2), 83(2), 105(2), 130(2); The language in paragraphs (c) and (d) has been amended at the suggestion of participants to delete the concept of "guilt". This was considered to be inappropriate in a statute dealing with professional regulation. One participant said the power to order publication of discipline decisions should be included in this section because publication is in itself a penalty. The Review believes publication of decisions is more appropriately dealt with separately, and has dealt with it in section 14.22A.

14.07

In the case of hearings into allegations of professional misconduct or incompetence, the Discipline Committee shall,

(a) consider the allegations, hear the evidence and ascertain the facts of the case;
(b) determine whether upon the evidence and the facts so ascertained the allegations have been proved;
(c) determine whether in respect of the allegations so proved, the member has committed an act or acts of professional misconduct or is incompetent;
(d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member has committed an act or acts of professional misconduct or is incompetent.

14.08

HDA 12(1), no substantive change

14.08

In proceedings before the Discipline Committee the College and the member of the College whose conduct is being investigated in the proceedings are parties to the proceedings.

14.09

HDA 12(2). The Review initially proposed no change to the requirement that there be "one-sided" disclosure in discipline proceedings. That is, the governing body would be required to disclose to the accused practitioner a report from each expert witness and the names of all proposed witnesses, in addition to the written or documentary evidence planned to be produced at the hearing. This was intended to allow the accused practitioner to know the case against him or her, and to facilitate the preparation of a defence.
Many participants said disclosure should be mutual, and that the reasons disclosure should be made to practitioners (fairness; openness; to avoid surprise and delay at the hearing) also apply to governing bodies. It was pointed out that the rules of civil procedure provide for mutual disclosure.

The Review has carefully considered these submissions, but on balance, we believe that the member's need to know the College's case in order to prepare a defence outweighs the

14.09

A member whose conduct or competence is being investigated in proceedings before a Discipline Committee shall be afforded an opportunity to examine no less than 10 days before the hearing,

(a) any written or documentary evidence that will be produced at the hearing; and
(b) the written report, if any, and in the absence of a written report, a written summary, of the evidence of each expert witness who will be called to give evidence as part of the direct case of the College; and
(c) the identity of all witnesses intended to be called by the College.

College's need to know the member's case. The College has a detailed knowledge of the facts of the case from the investigator's report or the record of the Complaint Committee investigation. Our belief is based is part on our conviction that prosecutions have not been unduly hampered by this provision.

Paragraph (b) has been amended to clarify the extent of the obligation to inform the opposite party of the testimony expected to be given by expert witnesses. Paragraph (c) has been amended to indicate that the identity of witnesses, and not just their names, must be disclosed.

14.09A

New; Several participants pointed out that it is sometimes difficult to know the components of one's case more than 10 days before the hearing, and that provision should be made for shortening the period provided there is no prejudice to anyone .This amendment gives the panel discretion to allow evidence to be introduced although it was not disclosed at least 10 days before the hearing. The phrase "or information" has been inserted to indicate that the provision also applies to the identity of witnesses intended to be called at the hearing.

14.10 - 14.10A

HDA 12(3), split into two sections for greater clarity. Section 14.10 has been amended to reflect the Review's proposal that a Council no longer have the power to direct the Discipline Committee to conduct a hearing.
As initially drafted, the provision now contained in section 14.10A would have precluded the Discipline Committee from communicating directly or indirectly "with any person" including spouses and so on. The Review believes that it is appropriate to limit communication with parties and their representatives, but that it is probably unnecessary to limit communication further as the decision is required to be based upon evidence on the record.

As well, section 14.10A has been amended to make it mandatory to share the legal advice obtained by the Committee with the parties in order that they may make submissions. The final phrase "as to the law" was removed to ensure that parties may make submissions on the entire range of legal advice given to the Committee.

14.09A

Where any of the evidence or information listed in 14.09 has not been disclosed at least 10 days prior to the hearing, the panel may in its discretion allow the introduction of the evidence and may make such directions as are necessary to ensure that prejudice does not result.

14.10

Persons appointed to a Discipline Committee holding a hearing shall not have taken part before the hearing in any investigation of the subject-matter of the hearing other than at a previous hearing of the Committee.

14.10A

Persons appointed to a Discipline Committee holding a hearing shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any party or his or her representative except upon notice to and with an opportunity for all parties to participate, but the Committee may seek legal advice from an independent adviser and in such case the nature of the advice shall be made known to the parties in order that they may make submissions.

14.11

HDA 12(4); amended. The HDA established a presumption that discipline hearings would be closed to the public. The Review proposed to reverse the presumption by requiring hearings to be open unless a listed exception to the rule of openness was applicable.

Many participants disagreed with the proposal in principle. A smaller number of participants made suggestions for improving the list of exceptions. The Review has tried to respond to participants' concerns while preserving the principle of openness.

The amendments to section 14.11 more clearly require the Discipline Committee to balance the competing interests respecting an open or closed hearing. The wording of the exceptions is primarily modelled on the Statutory Powers Procedure Act. The intention is to maintain openness to the greatest extent possible, while still protecting the interests that require protection. These interests include the interest of patients in maintaining privacy with respect to their health records or allegations of sexual misconduct. Paragraph (c) has been revised by changing "would" to "may". However, participants' suggestion that (c) should be expanded to include potential or anticipated proceedings or suits has not been acted on. We believe this would introduce an overly expansive and uncertain element not justified by the risk of prejudice. As is pointed out in the commentary accompanying section 6.08, the phrase "for the time period specified by the Committee" is intended to cover a ban of any time period considered necessary, including a permanent ban.

Participants also pointed out the Committee's need to be able to control publication of matters disclosed at hearings. This is addressed in the closing words of the section and in sections 14.11A and 14.11B. An enforcement provision relating to bans on publication and broadcasting has been included in section 29.

14.11

Hearings of the Discipline Committee shall be conducted in public, except where the Committee is satisfied,

(a) matters involving public security may be disclosed, or

(b) intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public, or

(c) that it may prejudice anyone in an actual criminal proceeding or actual civil suit or proceeding, or

(d) that it may jeopardize the safety of any person,

in which case the Discipline Committee may hold the hearing or part thereof concerning such matters in camera, or make such other orders as are necessary in its opinion to prevent the disclosure of the matters, including prohibiting publication or broadcasting of them in any form or medium for the time period specified by the Committee.

14.11A

New; to empower the Discipline Committee to ban publication of identifying information about any person involved in the matter. In the case of everyone but members found to have committed an offence or found to be incompetent, the ban may be for a period of time specified by the Committee or indefinitely. When a member is found guilty of an offence or is found to be incompetent and the penalty imposed is recorded on the register, the member's identity must be published. The Committee must be satisfied that, on balance, the public interest will best be served by making the order.

14.11A

Where, with respect to a hearing, the Discipline Committee is satisfied that the desirability of avoiding disclosure outweighs the desirability of adhering to the principle that these matters be known to the public, the Discipline Committee may make an order directing that any information respecting the identity of any person involved in the matter shall not be published or broadcast in any form or medium for such time period as is specified by the Committee, except that where a penalty is required or directed to be recorded on the register pursuant to Section 14.19B, the identity of the member shall be published.

14.11A[1]

New; to prohibit the publication or broadcasting of the identity of witnesses testifying as to allegations of sexual improprieties by the member. The prohibition is mandatory once requested by the witness. The provision is intended to overcome the unwillingness of victims of sexual misconduct to testify out of fear that their names will be disclosed.

14.11A[1]

Notwithstanding sections 14.11 and 14.11A, where the evidence to be given at the hearing by a witness, other than the member, includes matters relating to allegations of misconduct of a sexual nature, the identity of the witness shall not, upon the application of the witness, be published or broadcast in any form or medium including a report of the College published pursuant to section 14.22A.

14.11B

New; to empower the Committee to hear a motion requesting that the hearing be held in camera or be subject to a prohibition on publication in camera. The Committee may also prohibit publication of matters disclosed during the argument of the motion.

14.11B

When a motion is brought requesting the Discipline Committee to exclude the public from part or all of a hearing, or to prohibit publication of matters disclosed at the hearing, or to prohibit publication of the identity of the member charged or any other person, the Discipline Committee may hear the submissions with respect to the motion in camera or may make such other orders as are necessary in its opinion to prevent the disclosure of matters disclosed in the submissions, including prohibiting publication or broadcasting of them in any form or medium for the time period specified by the Committee.

14.12

New; to require the Discipline Committee to give written reasons when it decides to close part or all of a hearing, or bans publication or broadcasting of a matter disclosed at a

14.12

Where the Discipline Committee has decided to exclude the public from all or part of a hearing, has decided to ban publication or broadcasting of a *hearing, or information identifying any person. The Committee's order and reasons must be available to the public.*

The right to appeal a decision to close a hearing to the court has been deleted. The Review accepted the submissions of several participants that an appeal remedy is impractical because of the expense and delay that would result. We think the Committee should be able to control its own process within the limits of the law, bearing in mind that its decisions are always subject to judicial review.

matter, or has made an order under Section 14.11A or 14.11B, it shall make its order and state its reasons therefor in writing, and the order and reasons shall be available to the public.

14.13 - 14.13A

HDA 12(5); the Review's June proposal removed the right to a copy of the transcript of any part of a hearing subject to an order prohibiting publication. Section 14.13 has been revised to make the transcript unavailable if the hearing was closed. However, the member's right to obtain a transcript for the purpose of an appeal has been protected in section 14.13A.

14.13

The oral evidence taken before a Discipline Committee shall be recorded and, if so required, copies of a transcript of any part of a hearing conducted in public that is not subject to an order prohibiting publication or broadcasting shall be furnished to the person at the person's own expense.

14.13A

Notwithstanding section 14.13, the member may obtain, at his or her own expense, copies of the transcript of any part of the hearing for the purpose of appealing the decision of the Discipline Committee.

14.14

HDA 12(6); The Review initially proposed no substantive change to the existing provision, which applies the civil rules of evidence to discipline hearings. A small number of participants said the civil rules are not appropriate to discipline hearings, and that the more flexible rules of the Statutory Powers Procedure Act would be preferable. The Review still believes that the civil rules of evidence should be used, in view of the gravity of the proceedings and the potential penalty.

14.14

Notwithstanding the Statutory Powers Procedure Act, nothing is admissible in evidence before a Discipline Committee that would be inadmissible in a court in a trial by a civil action and the findings of a Discipline Committee shall be based exclusively on evidence admitted before it.

14.15

HDA 12(7), no change

14.15

No person appointed to a Discipline Committee shall participate in a decision of the Committee pursuant to a hearing unless he or she was present throughout the hearing and heard the evidence and argument of the parties.

14.16

HDA 12(8), no change

14.16

Documents and things put in evidence at a hearing of a Discipline Committee shall, upon the request of the person who produced them, be released to him or her by the Committee within a reasonable time after the matter in issue has been finally determined.

14.17

HDA 37(3), 60(3), 83(3), 105(3), 130(3); the HDA provision was amended by changing "may" to "shall" in the opening words of section, so that a finding of professional misconduct is mandatory if the Committee makes a finding under paragraph (a), (aa) or (b). A small number of participants prefer "may" out of concern for a member who commits a "technical" breach. The Review continues to believe that in such a case the member must be found to have committed an act of professional misconduct, but that the penalty can be appropriately mild.

Paragraph (aa) has been added to empower the Discipline Committee to recognize findings of professional misconduct against a member in another jurisdiction. The Discipline Committee must be of the opinion that the act of professional misconduct that the member committed would constitute professional misconduct in Ontario.

14.17

A member shall be found to have committed an act of professional misconduct by the Committee if,

(a) the member has been found guilty of an offence relevant to the member's suitability to practise upon proof of such finding; or
(aa) a professional governing body in another jurisdiction has found the member to have committed an act of professional misconduct that, in the opinion of the Discipline Committee, would constitute professional misconduct as defined in the regulations under the specific Act governing the health profession of which he or she is a member; or
(b) in the opinion of the Discipline Committee the member has committed an act of professional misconduct as defined in the regulations under the specific Act governing the health profession of which he or she is a member.

14.18

HDA 37(4), 60(4), 83(4), 105(4), 130(4). The Review proposed that the word "may" in the opening part of the provision be changed to "shall", so that a finding of incompetence would be mandatory if the conditions set out in paragraphs (a) or (b) were met. The proposal retained the

14.18

The Discipline Committee shall find a member to be incompetent if in its opinion the member has displayed in the member's professional care of a patient

(a) lack of knowledge, skill or judgment; or,
(b) disregard for the welfare of the patient;

requirement of a link to patient care. A number of participants said this requirement makes the definition of incompetence too narrow. The Review believes it is possible, and will continue to be possible, to discipline a member whose indirect care of a patient is inadequate (e.g. through inadequate supervision or delegation of duties) by charging the member under section 14.17(b) with professional misconduct in that he or she has failed to meet the standards of the profession. That is, it should be recognized that the incompetence section supplements, but does not replace, competence-related categories of professional misconduct.

The words "or that the member's practice should be restricted" have been added at the end of the section to clarify that it is possible to discipline a member for incompetence that in its nature or extent does not indicate that he or she is unfit to continue in practice. For example, the incompetence may relate to a limited area of practice, such as obstetrics in the case of a physician.

14.19 - 14.19A - 14.19B

HDA 37(5), 60(5), 83(5), 105(5), 130(5), redivided to clarify the penalties that may be imposed by the committee and the committee's obligation with respect to directing the recording of penalties on the register. Section 14.19B, addressing the recording of penalties on the register, has been made applicable to penalties imposed on members found to be incompetent, pursuant to section 14.20.
The references to recognition of specialist status have been deleted as only a limited number of professions will be authorized to recognize specialties. The discipline committees of these professions will be given powers in relation to recognition of specialist status in their Professional Acts.
The maximum fine has been doubled to $10,000. One participant suggested that at least a portion of the fines collected should go to the governing body to reimburse it for its costs. The Review believes this to be inappropriate, as there should be no financial incentive to find that the member has committed an act of professional misconduct or to determine that a fine is the appropriate penalty.

of a nature or to an extent that demonstrates that the member is unfit to continue in practice or that the member's practice should be restricted.

14.19

Where the Discipline Committee finds a member has committed an act of professional misconduct, it may by order impose one or more of the following penalties:

(a) revoke the certificate of registration of the member;
(b) suspend the certificate of registration of the member for a stated period;
(c) impose such restrictions on the certificate of registration of the member for such a period and subject to such conditions as the Committee designates;
(d) reprimand the member;
(e) impose such fine as the Committee considers appropriate to a maximum of $10,000 to be paid by the member to the Treasurer of Ontario for payment into the Consolidated Revenue Fund;

14.19A

Where the Discipline Committee finds a member has committed an act of professional misconduct, it may direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates.

14.19B

Where the Discipline Committee revokes or suspends the member's certificate of registration or imposes restrictions on the certificate of registration pursuant to paragraphs (a), (b) or (c) of section 14.19 or paragraphs (a), (b) or (c) of section 14.20, the revocation, suspension or restrictions shall be recorded on the register, and where the Committee pursuant to paragraphs (d) and (e) of section 14.19 or section 14.19A, reprimands the member, imposes a fine on the member or suspends the penalty to be imposed on the member, the Committee may direct that the reprimand, fine or penalty be recorded on the register.

14.20

HDA 37(5), 60(5), 83(5), 105(5), 130(5) second part, amended to remove the concept of guilt from a finding of incompetence and to reflect the limited range of penalties appropriate when a member is found to be incompetent. For the reason stated in the commentary accompanying section 14.19, the references to recognition of specialist status have been deleted.

Paragraph (b) has been amended to permit suspension for an indefinite period of time and to impose conditions on the removal of the suspension. This recognizes that a suspension alone may only increase the member's incompetence and that some retraining will be necessary. Paragraph (c) has been added at the suggestion of a participant in recognition of the fact that a member may be incompetent in a limited area of practice, and that absolute revocation of the certificate of registration may therefore be unwarranted.

14.20

Where the Discipline Committee finds a member is incompetent it may by order,

(a) revoke the certificate of registration of the member;
(b) suspend the certificate of registration of the member for an indefinite period of time, and specify criteria that must be satisfied by the member to obtain the removal of the suspension;
(c) impose such restrictions on the certificate of registration of the member for such a period and subject to such conditions as the Committee is satisfied will address the particular incompetence demonstrated by the member.

14.20A

New; at the suggestion of participants, a provision has been added empowering the Discipline Committee to delegate to he Registrar the determination of when terms or conditions et by the Committee have been satisfied. For example, the Committee might impose a restriction on the member's egistration until the member demonstrates, through uccessful completion of a course of study or supervised ractice, that he or she had attained competence in the ractice area that had been restricted. The Committee could lelegate to the Registrar the determination of when a atisfactory course of study or period of supervised practice ad been successfully completed. The member retains the ight to appeal the Registrar's decision back to the Commitee.

4.21

HDA 37(6), 60(6), 83(6), 105(6), 130(6); The Review proosed no substantive change. One participant said the ower to award costs to the member should be strictly imited to such situations as where the proceedings were rivolous, vexatious, or an abuse of process, and should exist t all only if fines levied against members can be paid to the overning body to reimburse it for the costs of disciplinary roceedings. The Review believes such a limitation would e inappropriate, and that it should be within the discretion f the discipline committee to determine when costs are ppropriate. For reasons stated in the commentary accomanying section 14.19, we believe fines levied against embers should not be paid to the governing body. Another articipant suggested that a more neutral body should ecide whether costs should be awarded to the member. hile this suggestion may have merit, no appropriate eutral body appears to exist to perform this function. ne participant said that there should be a like power to ward costs against the member when, for example, his or er defence was frivolous, vexatious, or unduly protracted. he Review believes this to be inappropriate because of the ossible bias and appearance of bias inherent in a commite of the governing body ordering costs against a member. t the suggestion of participants the provision now explicitly fers to the member's "legal" costs and the Discipline ommittee may fix "or assess" the portion to be reimbursed the College.

14.20A

Where, pursuant to section 14.19, 14.19A or 14.20, the Discipline Committee imposes restrictions on the certificate of registration, designates terms upon which the imposition of a penalty is suspended or postponed, or specifies criteria that must be satisfied by the member to obtain removal of a suspension, the Discipline Committee may in its decision delegate to the Registrar the determination of whether the restrictions, terms or criteria have been satisfied, provided that the member my appeal the Registrar's determination to the panel of Discipline Committee that made the original decision.

14.21

Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the College reimburse the member for his or her legal costs or such portion thereof as the Discipline Committee fixes or assesses.

14.22

HDA 37(9), 60(9), 83(10), 105(9), 130(9); The Review initially proposed that the section be amended to require the committee to deliver a copy of its decision to the member and the complainant. Currently, the complainant receives a copy only when the member is found guilty. The Review proposed to extend this to cover all findings.

Two participants suggested that the discipline committee should also be required to furnish reasons. Currently, through application of the Statutory Powers Procedure Act, reasons are required when requested by the parties. The Review thinks reasons should always be provided in disciplinary proceedings, out of fairness to members and complainants, and to enhance the accountability of discipline committees.

14.22

The Discipline Committee shall deliver a copy of its decision and reasons therefor in writing to the member and the person complaining in respect of the conduct or action of the member, if any.

14.22A

New, to deal with publication of discipline committee decisions and reasons in a uniform way. Currently this is dealt with by profession-specific Regulations under the HDA. Under the proposed section, the decision and reasons may be summarized for brevity, or edited to protect the identity of persons and to prevent the disclosure of information where the discipline committee has made the appropriate provision under section 14.11, 14.11A or 14.11B.

By virtue of these sections and section 14.19B, it is mandatory to publish the member's name only where his or her certificate of registration has been revoked or suspended or restrictions have been imposed on it. In all other cases the Discipline Committee may, in appropriate circumstances, order that the member's name not be published.

A few participants said that they preferred to publish Discipline Committee decisions in reports separate from their annual reports. The Review believes that all Colleges should publish at least summaries of Discipline Committee decisions in their annual reports. Colleges that wish to publish decisions in detail as well, may do so in a separate report or appendix.

14.22A

The decision and reasons of the Discipline Committee, or a summary thereof, shall be published by the College in its annual report and may be published in any other publication of the College, and the decision and reasons may be published in an edited form where the Discipline Committee has made an order under section 14.11 or 14.11A.

14.23

HDA 14(2) deleted, because it duplicates section 22 of the Statutory Powers Procedure Act.

14.23

deleted

Section 15 - Interim Orders

5.

IDA 58a; Interim orders give the Executive Committee of a overning body the power to suspend or limit a member's ight to practise before a hearing is held where the risk of arm is significant. Because of the relative lack of the usual rocedural protections and the severity of the penalty, only a igh probability of harm to patients or potential patients ould justify use of this power.

'he Review suggested that the power could be removed from his statute, and placed in the individual Professional Acts f those professions that require it because of the nature of heir contact with patients and the greater risk of harm.

'articipants were requested to comment on the appropriate-ess of the power for each regulated profession.

'he power has now been deleted from this statute and has een inserted in the Professional Acts for each profession hose members perform one or more licensed acts. We have roposed no substantive changes to the HDA provisions.

15.

deleted in entirety

Section 16 - Incapacity

16.01

HDA 38(2), 62(2), 84(2), 106(2), 131(2), first part

16.01

Where the Registrar receives information leading him or her to believe that a member may be an incapacitated member, the Registrar shall make such inquiry as he or she considers appropriate and shall report to the Executive Committee.

16.02

HDA 38(2), 62(2), 84(2), 106(2), 131(2), second part, The Review's initial proposal clarified that there are two routes by which a member may become involved in incapacity proceedings but made no change to the existing provisions. In the June 1988 proposals the section was reworded to require the Executive Committee to appoint a board of inquiry when a referral is received from the Complaints Committee. A number of participants said that the Executive Committee should have a discretion even in relation to Complaints Committee referrals because the Executive Committee may be aware of a reason the appointment of a board of inquiry would be inappropriate. The section has been reworded accordingly. Where the Complaints Committee refers the member to the Executive Committee for appointment of a board of inquiry, but the Executive Committee believes that this is inappropriate, the Executive Committee can consider whether there is evidence of professional misconduct or incompetence.

16.02

Upon the receipt of a report from the Registrar pursuant to section 16.01 or a referral of a member from the Complaints Committee, pursuant to section 12.04(a), the Executive Committee may, upon notice to the member, appoint a board of inquiry composed of at least two members of the College and one member of the Council appointed thereto by the Lieutenant Governor in Council, who shall inquire into the matter.

16.03

HDA 38(3), 62(3), 84(3), 106(3), 131(3), amended to permit examinations by any health professional whose profession is regulated under this Act. The Review recognizes that in most instances the examinations are likely to be conducted by physicians. The new wording also reflects the fact that components of the examination may be carried out by unregulated health care providers (e.g. ultrasonographers). Pursuant to section 16.04C, the member must be given two weeks to submit written representations where the board of inquiry proposes to suspend his or her registration for refusal to submit to the examinations ordered by the Committee. The Review believes this requirement is consistent with the principles stated in Re Percheson and College of Physicians and Surgeons of Ontario et al. (1987), 59 O.R. (2d) 343.

16.03

The board of inquiry shall make such inquiries as it considers appropriate and may require the member to submit to physical or mental examinations conducted or ordered by such members of the health professions referred to in Schedule A to this Act as the board designates and if the member refuses or fails to submit to such examinations the board may order that the member's certificate of registration be suspended until he or she complies.

16.03A

New, to require a health professional who has examined a member pursuant to section 16.03 to prepare a written report in every case and to provide it to the board of inquiry as soon as is practical.

16.04

HDA {38(4)}, 62(4), {84(4)}, {106(4)}, {131(4)}, first part. The board of inquiry is now required to report its findings to the Executive Committee as soon as is reasonably practical. The second part, authorizing the Executive Committee to suspend or restrict the member's certificate of registration, is now dealt with in section 16.04A.

16.04A to H

New, setting out the procedures which must be followed when the Executive Committee suspends or restricts the certificate of registration of a member who has been referred to the Fitness to Practise committee for a hearing. The procedures are modelled on section 15, which sets out the procedures applicable when a an interim order is made suspending or restricting a member's certificate of registration prior to a disciplinary hearing. (As noted in the commentary, section 15 has been transferred from this Act to a limited number of Professional Acts.)

A small number of participants said that it is unnecessary to make incapacity proceedings subject to "due process" requirements, because the proceedings are informal and co-operative in nature, not formal and adversarial. The Review continues to believe that any proceedings which place a member's certificate of registration at risk should be procedurally fair.

16.04A

HDA {38(4)}, 62(4), {84(4)}, {131(4)}, second part, no substantive change.

16.03A

A health professional who conducts or orders an examination of a member pursuant to section 16.03 shall make a written report to the board of inquiry as soon as is reasonably practical.

16.04

The board of inquiry shall report its findings to the Executive Committee as soon as is reasonably practical and shall deliver a copy thereof and a copy of any report of a health professional obtained pursuant to section 16.03 to the member about whom the report is made and if in the opinion of the Executive Committee the evidence so warrants, the Executive Committee shall refer the matter to Fitness to Practise committee to hold a hearing.

16.04A

Where the Executive Committee has referred the matter to the Fitness to Practise Committee under section 16.04, the Executive Committee may by order suspend the certificate of registration of the member or may impose such restrictions on the certificate of registration of the member as the committee designates.

16.04B

New, stating the grounds for suspending or restricting the member's certificate of registration under section 16.04A.

16.04B

The Executive Committee may make an order under 16.04A where, having considered the written explanations and representations of the member, if any, under section 16.04C, it is of the opinion that the physical or mental state of the member exposes or is likely to expose to harm or injury persons who are or who become patients of the member.

16.04C

New. The Review's June 1988 proposals indicated that the intention of the section was to give the member two weeks to submit written representations when the board of inquiry (misstated in the commentary as the Executive Committee) intends to require him or her to submit to mental or physical examinations or to suspend his or her registration, or the Executive Committee intends to suspend or restrict the member's certificate of registration. A number of participants pointed out that this intent was not clear from the section, and it has been reworded accordingly. The section has also been changed by eliminating the member's right to make representations when the board of inquiry requires him or her to submit to an examination. The Review agrees with participants that disagreements at this stage can be handled administratively. The member retains the right to make representations when the board of inquiry proposes to suspend his or her registration for refusing to submit to an examination.

16.04C

The board of inquiry shall not suspend a member's certificate of registration under section 16.03, and the Executive Committee shall not suspend or impose restrictions on the member's certificate of registration under section 16.04A unless the member has been given at least two weeks in which to submit in writing to the board of inquiry or Executive Committee, as the case may be, any explanations or representations the member may wish to make.

16.04D

New, requiring the governing body to act quickly to commence the fitness to practice hearing when the member's certificate of registration has been suspended or restricted.

16.04D

Where an order is made under section 16.04A, the College shall commence proceedings expeditiously before the Fitness to Practise Committee in respect of the alleged incapacity of the member and shall prosecute the matter expeditiously.

16.04E

New, requiring the fitness to practise committee to give priority to hearings involving members whose certificates of registration have been suspended or restricted.

16.04E

The Fitness to Practise Committee shall give precedence to and hear and determine proceedings commenced under section 16.04D at as early a date as possible.

16.04F

New, giving the member access to the court when the fitness to practise proceeding has not been expedited under section 16.04D or 16.04E.

16.04F

A member whose certificate of registration has been suspended or restricted who is of the opinion that the College has not commenced proceedings expeditiously as required by section 16.04D or that the Fitness to Practise Committee is not giving precedence to and hearing and determining the matter at as early a date as possible as required by section 16.04E may make application to the Court for judicial review.

16.04G

New, dealing with the powers of the court.

16.04G

An application under section 16.04F may be made without leave and the court shall treat the application as a case of urgency where delay is likely to involve a failure of justice and the court may give such directions as the court believes proper for expediting the proceedings mentioned in section 16.04E or may make such order as the court considers proper in the matter.

16.04H

New; the Review's June 1988 proposal required a member to be notified of the applicable rights and procedures when an order is made requiring him or her to submit to a mental or physical examination, or suspending or restricting his or her certificate of registration. At the suggestion of participants, the section has been revised to apply only to orders suspending or restricting a member's certificate of registration under 16.04A.

16.04H

An order under section 16.04A,

(a) shall be in writing,
(b) shall state that it is made under section 16.04A, and
(c) shall set out sections 16.04C to 16.06G.

16.04I - 16.04J

New; to clarify that Fitness to Practice Committees may sit in panels, and to provide for a quorum in relation to the panels.

16.04I

The Chairman of the Fitness to Practise Committee may assign a panel of not less than three persons to hold a hearing, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

16.04J

Three persons assigned to a panel under section 16.04I constitute a quorum for a hearing and all decisions made pursuant to the powers listed in section 16.07 require the vote of a majority of such persons presiding at the hearing.

16.04J[1]

New; At the suggestion of participants a provision has been added to enable a person sitting on the Fitness to Practise Committee to complete a proceeding after his or her appointment expires.

16.04J[1]

Where a proceeding is commenced before the Fitness to Practise Committee and the term of office on the Council or on the Committee of a person sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the person shall be deemed to remain on the Fitness to Practise Committee for the purpose of completing the disposition of the proceeding in the same manner as if his or her term of office had not expired or been terminated.

16.05

HDA [38(5)], 62(5), [84(5)], [106(5)], [131(5)], no substantive change

16.05

The College, the person whose capacity is being investigated and any other person specified by the Fitness to Practise Committee are parties to a proceeding under this section.

16.06

HDA 38(6), 62(6), 84(6), 106(6), 131(6), The section has been re-written at the suggestion of participants. It now clearly applies to all reports of health professionals to be introduced in evidence at incapacity hearings (subject to the special rules governing the health professional to whom the member is sent pursuant to section 16.03). The section no longer makes the health professional's case histories, notes and other records uncompellable; whether they must be produced when requested by a party will now be determined by the committee.

16.06

A member of a health profession required to give evidence at a hearing shall prepare a report containing the facts, findings, conclusions and treatment and such a report shall be signed by him or her and served upon the other party to the proceedings at least ten days before the hearing and the report is receivable in evidence without proof of its making or of the signature of the health professional making the report but a party who is not tendering the report as evidence has the right to summon and cross-examine the health professional on the contents of the report.

16.07

HDA [38(7)], 62(7), [84(7)], [106(7)], [131(7)], amended to permit suspensions for an indefinite period of time, to provide for the Committee to specify the criteria the member must satisfy for full restoration of his or her registration and to empower the Committee to combine orders. The wording has been changed for consistency with other provisions of the Act.

16.07

The Fitness to Practise Committee shall, after the hearing,

(a) make a finding as to whether or not the member is an incapacitated member; and

(b) where the member is found to be an incapacitated member, make one or more of the following orders:
  i) revoke the certificate of registration of the member,
  ii) suspend the certificate of registration of the member for an indefinite period of time and specify criteria that must be satisfied by the member to obtain the removal of the suspension,
  iii) impose such terms, conditions and limitations on the certificate of registration of the member for such period as the committee designates, and may specify criteria that must be satisfied by the member to obtain the removal of the terms, conditions and limitations.

16.08 - 16.08A

HDA [38(8)], 62(8), [84(8)], [131(9)] Section 16.08 incorporates a number of procedures governing discipline proceedings. These include the right of a member to request that the Fitness to Practise Committee make reasonable efforts to constitute a French-speaking panel to conduct the hearing in French. The fact that the Statutory Powers Procedure Act rules rather than the civil rules of evidence apply to incapacity hearings, is now made explicit in section 16.08A.

The concluding words of section 16.08, "except that the decision takes effect immediately notwithstanding that an appeal is taken from the decision", have been deleted because the same provision appears in section 17.03.

16.08

The provisions of section 14.03A, 14.09 to 14.10A, 14.15, 14.16, 14.19B and 14.20A apply with necessary modifications to proceedings of the Fitness to Practise Committee under this section.

16.08A

The findings of fact of the Fitness to Practise Committee pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the Statutory Powers Procedure Act.

16.09

The Review's June 1988 proposals established that as a general rule incapacity hearings would be open to the public, subject to a number of exceptions. Many participants pointed out that incapacity hearings always deal with intimate personal matters relating to the member's physical or mental capacity, and that the general rule should therefore be to hold the hearings in camera. The Review has accepted this principle, subject to the member's request to have the hearing conducted in public; however, the Committee may deny the member's request when it is satisfied that one of the listed conditions exists.

16.09

Notwithstanding anything in the Statutory Powers Procedure Act, hearings of the Fitness to Practise Committee shall be held in camera, but, if the member whose capacity is being investigated requests otherwise by notice delivered to the Registrar before the day fixed for the hearing, the Committee shall conduct the hearing in public except where the Committee is satisfied

(a) matters involving public security may be disclosed, or

(b) intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure hereof in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public, or

(c) that it may prejudice anyone in an actual criminal proceeding or actual civil suit or proceeding, or

(d) that it may jeopardize the safety of any person.

16.10

HDA 131(8), no substantive change

16.10

The Registrar may give notice of an order made under section 16.07 to such persons as the Registrar considers appropriate in the public interest.

Section 17 - Appeals to Court

17.01

HDA 13(1) & 11(9), no substantive change. Provision for appeals from decisions of the Fitness to Practise committee was inadvertently omitted from the initial proposal. This has now been corrected.

17.01

Any party to proceedings before the Health Professions Board concerning a registration hearing or review under section 11, before a Discipline Committee under section 14, or before a Fitness to Practise Committee under section 16, may appeal from the decision or order of the Board or committee to the Divisional Court in accordance with the rules of court.

17.02

HDA 13(2), no substantive change. A small number of participants requested clarification of the nature and extent of the court's powers under this section. Our intention, which we believe is achieved by the existing wording, is to give the court the powers of both committees and the Health Professions Board. For example, in a registration matter the court should have the power to refuse registration (a power the Board has but the registration committee does not have) and to exempt the applicant from a registration requirement (a power the committee has but the Board does not have except in narrow circumstances.)

17.02

An appeal under section 17.01 may be made on questions of law or fact or both and the court may affirm or may rescind the decision of the committee or Board appealed from and may exercise all powers of the committee or Board and may direct the committee, Board, or College to take any action which the committee, Board, or College may take and as the court considers proper, and for such purposes the court may substitute its opinion for that of the committee or Board or the court may refer the matter back to the committee or Board for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

17.03

HDA 37(7), 37(8), 60(7), 60(8), 83(9), 83(10),

17.03

Where the Discipline Committee revokes, suspends or restricts a certificate of registration on the grounds of incompetence, or where the Fitness to Practise Committee revokes, suspends or restricts a certificate of registration on the grounds of incapacity, the decision takes effect immediately notwithstanding that an appeal is taken from the decision.

17.04

105(7),105(8), 130(7), 130(8) At the suggestion of a participant the phrase "on a ground other than for incompetence" has been changed to "on the grounds of professional misconduct".

17.04

Where the Discipline Committee revokes, suspends or restricts the certificate of registration of a member on the grounds of professional misconduct, the order shall not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned.

Note on the Role of the Ombudsman

Three participants suggested that section 17 make provision for the role of Ombudsman, but among the three there was no consensus about what the role should be. The Ombudsman Act gives the Ombudsman jurisdiction to investigate complaints against Ministries, agencies and boards of the provincial government, including the Health Disciplines Board. The Ombudsman does not have jurisdiction to investigate complaints against governing bodies under The Health Disciplines Act, as these are recognized by his office as independent of Government. The Review does not propose to make any recommendation to alter the current situation. The Ombudsman's future role is not within the Review's mandate.

Section 18 - Restoration of Registration

18.01

HDA 39(1), 63(1), 85(1), 107(1), 132(1), The Review initially proposed to amend this section to make it apply to suspensions and revocations resulting from disciplinary and incapacity proceedings and failure to comply with continuing competence requirements. Since revocation or suspension of a member's certificate of registration is not a direct consequence of failure to comply with continuing competence requirements, this reference has been deleted.
The section was also amended to make it clear that it applies to suspensions of an indefinite period of time exceeding one year.

One participant pointed out that there is nothing in the Act to prevent persons whose certificates of registration have been revoked or suspended for cause from applying for registration de novo rather than making application under this section. Rather than prohibiting this in this Act, the Review proposes that governing bodies address the matter pursuant to their authority to pass regulations in relation to registration requirements. They can require applicants to state their registration history, both in Ontario and elsewhere, and to provide evidence that they are not the subject of a current proceeding or an outstanding penalty relating to professional misconduct, incompetence or incapacity.

18.02

New; The Review proposed to limit applications for restoration of registration by requiring a six month interval between rejection of an application and reapplication. A small number of participants said the minimum interval should be one year given the expense of hearings. However, a six month interval has been retained as the Review believes it strikes the appropriate balance between the applicant's interest in regaining full membership as quickly as possible and the governing body's interest in preventing unduly frequent reapplications.

18.03

HDA [39(2)], 63(2), [85(2)], [107(2)], [132(2)]; The amendments proposed by the Review clarified the Committee to which an application shall be referred. Since failure to comply with continuing competence requirements has no direct effect, paragraph (c) has been deleted; this change is

18.01

A person whose certificate of registration has been revoked or suspended for a period of more than one year as a result of disciplinary or incapacity proceedings under this Act, or a predecessor of this Act, may apply in writing to the Registrar for the issuance of a certificate of registration or removal of the suspension, but such application shall not be made sooner than one year after the revocation or, where the suspension is for more than one year or is for an indefinite period of time, one year after the suspension.

18.02

A person who has applied for the restoration of a certificate of registration pursuant to section 18.01 and whose application has been rejected shall not make further application for a period of at least six months thereafter.

18.03

The Registrar shall refer the application,

(a) when the revocation or suspension was on the grounds of professional misconduct or incompetence, to the Discipline Committee; or

consistent with the deletion in section 18.01.
Since the Committee's decision in an application for restoration of a certificate of registration may affect what appears on the register, the Review believes it is more appropriate for the decision to be reported to the Registrar than to the Council. In any event, all committees report annually on their activities to the Council. The concluding words of the section have been changed accordingly.

18.04 - 18.04A

HDA 39(3), 63(3), 85(3), 107(3), 132(3). The Review initially proposed that the same procedural rules be used by committees throughout their proceedings, from the proceeding that led to the certificate of registration being revoked to the application for re-registration. This would mean that the civil rules of evidence would be used in restoration hearings before the Discipline Committee. Several participants said this is inappropriate, primarily because of the type of evidence likely to be presented at restoration hearings (e.g. character evidence, evidence of remediation). The Review agreed, and the section was revised in the June 1988 proposals. Because somewhat different procedures now apply to Discipline and Fitness to Practise hearings (the principal difference being the general rule of open discipline hearings and closed incapacity hearings), the provision has been split into two sections, 18.04 and 18.04A.

References to sections 14.09 and 14.09A have been deleted from both sections 18.04 and 18.04A. As several participants pointed out, these disclosure provisions are inappropriate to a proceeding in which the onus of proof and persuasion is on the member or former member.

Two participants said unsuccessful applicants should have a right of appeal from committee decisions. The Review believes this is unnecessary and inappropriate. First, the original decision to revoke or suspend the member's registration was appealable. Secondly, a member may re-apply every six months. In any event a decision, while not directly appealable, can be the subject of an application for judicial review.
One participant raised the apparent injustice of a member

(b) when the revocation or suspension was on the grounds of incapacity, to the Fitness to Practise Committee,

and the committee shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Registrar and to the suspended or former member.

18.04

The provisions of sections 11.02, 14.10A to 14.13 and 14.15 and 14.16 shall apply with necessary modifications to proceedings of the Discipline Committee under this section, but there is no appeal to the Court as provided by section 17.01.

18.04A

The Committee to which the Registrar has referred the application pursuant to section 18.03 shall consider the decision and reasons of the committee that imposed the revocation or suspension in question and may consider the record of the hearing pursuant to which the revocation or suspension in question was imposed.

being required to re-apply to the same committee that revoked or suspended the certificate of registration originally. The Review expects that a different committee panel would ordinarily be assigned to hear the application. Furthermore, with the passage of time, committee memberships are likely to change.

18.04A[1]

New, to clearly permit the Committee determining whether a certificate should be issued or the suspension lifted to consider those matters which were originally in evidence when the penalty was imposed. The section now requires the Committee to consider the decision and reasons of the committee that imposed the revocation or suspension.

18.05

HDA 63(4), 132(4), no substantive change

18.04A[1]

The provisions of section 14.10A, 14.13, 14.15, 14.16 and 16.08A shall apply with necessary modifications to proceedings of the Fitness to Practise Committee under this section, but there is no appeal to the Court as provided by section 17.01.

18.05

Notwithstanding sections 18.01 to 18.04, the Council or Executive Committee may direct at any time that a certificate of registration be issued to a person whose certificate of registration has previously been revoked or that a suspension be removed, subject to such terms, conditions or limitations as the Council or Executive Committee, as the case may be, considers appropriate.

Section 19 - Registrar's Investigatory Powers

The Review was advised that Section 19 is currently being reviewed by the Attorney General in the context of a review of similar powers wherever they appear in provincial statutes. As a result, the Review initially proposed no changes pending completion of the Attorney-General's review. At the suggestion of participants and in view of changes proposed for other related sections of this Act, a small number of amendments have been recommended.

19.01

HDA 40(1), 64(1), 108(1), 133(1); A few participants suggested that the Registrar should be required to obtain the approval of the executive committee before commencing an investigation, as is currently required of the Registrar of the College of Physicians and Surgeons. The R[illegible] agrees with this suggestion.

As well, provision has been made for the complaints committee to request the Registrar to appoint an investigator. This is intended to enable the complaints committee to obtain the information it needs to reach a decision. As the section is worded, the Registrar may appoint an investigator upon the instruction of the complaints committee even though he or she has no belief the member has committed an act of professional misconduct or is incompetent. However, the Registrar retains discretion not to appoint an investigator.

19.02

HDA 40(2), 64(2), 108(2), 133(2) One participant said that the investigator should be given the right to enter any other place where the member's business records are stored. The Review believes this is unnecessary because section 7(b) of the Public Inquiries Act empowers the investigator to require the member to produce any specified documents and things, and section 19.04 of this Act enables the investigator to apply to a justice of the peace for an order to enter and search any place.

A number of participants suggested that express provision be made for the investigator to obtain access to records notwithstanding confidentiality provisions contained in other statutes and regulations. This suggestion has been

19.01

Where

(a) the Registrar believes on reasonable and probable grounds that a member has committed an act of professional misconduct or is incompetent, and has obtained the approval of the Executive Committee to appoint an investigator, or

(b) the Complaints Committee, being in receipt of a written complaint, has requested the Registrar to conduct an investigation, and to inform it of the results,

the Registrar may by order appoint one or more persons to make an investigation to ascertain whether the member has committed an act of professional misconduct or is incompetent, and the person appointed shall report the result of his or her investigation to the Registrar.

19.02

For the purposes relevant to the subject-matter of an investigation under this section, and notwithstanding any provision in any Act or regulation providing for the confidentiality or secrecy of health records, the person appointed to make the investigation may inquire into and examine the practice of the member in respect of whom the investigation is being made and may, upon production of his or her appointment, enter at any reasonable time the business premises of such person and examine books, records, documents and things relevant to the subject-matter of the investigation, and for the purposes of the inquiry, the person making the investigation has the powers of a *incorporated in the section. The problem of health records being removed is now addressed in section 19.05 and 19.05B.*

19.03

HDA 40(3), 64(3), 108(3), 133(3), no substantive change

19.04

HDA 40(4), 64(4), 108(4), 133(4), no substantive change

19.05 - 19.05A - 19.05B

HDA 40(5), 64(5), 108(5), 133(5); In the June 1988 proposals, the concluding words of the section were amended to require materials removed by an investigator to be returned to their source. Several participants asked that the provision be rewritten to impose detailed rules about the removal, retention and return of documents and exhibits. The Review thinks this would be undesirable. However, the section has been rewritten and divided to provide that

commission under Part II of the Public Inquiries Act, which Part applies to such inquiry as if it were an inquiry under that Act.

19.03

No person shall obstruct a person appointed to make an investigation under this section or withhold from him or her or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

19.04

Where a justice of the peace is satisfied, upon an ex parte application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the justice of the peace may, whether or not an inspection has been made or attempted under section 19.02, issue an order authorizing the person making the investigation, together with such police officer or officers as he or she calls upon to assist him or her, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the justice of the peace, by the order, authorizes the person making the investigation to make the search at night.

19.05

The custodian of the books, records, documents or things examined under section 19.02 or 19.04 relating to the member whose practice is being investigated and to the subject-matter of the investigation shall provide copies thereof to the person making an investigation under this section, and if the custodian *materials may be removed only when their custodian fails to provide copies of them in a reasonable time. The copying expenses must be borne by the College.*

fails to do so within a reasonable time, the person making the investigation may upon giving a receipt therefor, remove the books, records, documents or things for the purpose of copying them.

19.05A

A custodian who provides copies of books, records, documents or things to a person making an investigation may charge reasonable copying costs to the College whose Registrar has ordered the investigation.

19.05B

Where a person making an investigation removes books, records, documents or things under section 19.05, he or she shall copy them with reasonable dispatch and shall thereafter promptly return them to the custodian from whom or the place from which they were taken.

19.06

HDA 40(6), 64(6), 108(6), 133(6), no substantive change

19.06

Any copy made as provided in section 19.05 or 19.05B and certified to be a true copy by the person making the investigation or by the custodian of the records is admissible in evidence in any action, proceeding or prosecution as prima facie proof of the original book, record or document and its contents.

19.07

HDA 40(7), 64(7), 108(7), 133(7); Since the Review has proposed that the Registrar require the approval of the executive committee, rather than that of the Council, to appoint an investigator, and that the executive committee rather than the Council refer members to discipline, the results of the investigation should be reported to the executive committee. When the complaints committee requested the investigation, the results should be reported to it.

19.07

The Registrar shall report the results of the investigation to,

(a) the Executive Committee in the case of an investigation undertaken pursuant to section 19.01(a); or

(b) the Complaints Committee, in the case of an investigation undertaken pursuant to section 19.01(b).

Section 20 - Continuing Competence Committee

20.01

The Review's June 1988 proposals required the Continuing Competence Committee of each College to establish by regulation a program designed to maintain and enhance the ongoing competence of members. The provision has been revised to require the Council rather than the Committee to develop and establish the program; the Committee's role is to administer it.

Several participants suggested that various additional matters should be included in the purposes of the program. The Review believes that the essential purposes of the program are as stated in the section, and that the additional purposes proposed by participants are largely means of achieving them.

Continuing competence programs should be operational within three years of promulgation of the Professional Acts.

20.02

Section 20.02 sets out the approaches available to the Council when developing and establishing a program. The Review believes that the approaches set out in this section will ensure that all methods of maintaining and/or assessing continuing competence will be available to each College. Each profession may choose the combination it believes most appropriate to its particular circumstances, and, subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, may implement its choice of methods. It will be left to each profession to determine what part or parts of the profession it wishes to exempt or to target, if any. For example, many professions may wish to exempt those on the inactive practice register. Of course, each profession will set out the conditions under which a practitioner may be said not to be in active practice when it establishes its registers.

20.03

This section authorizes the Council or Committee to obtain assistance from others to establish the program and to assist in its implementation. In particular, non-committee members may be authorized to act as assessors, evaluating the competence of individual members.

20.01

The Council shall develop and establish by regulation a continuing competence program to be administered by the Continuing Competence Committee for the purpose of maintaining and enhancing the competence and standards of practice of members in the care of patients and in record keeping in relation to members' practices.

20.02

In establishing the continuing competence program referred to in section 20.01, the Council may select from one or more of the following approaches:

(a) administering written or oral tests of clinical knowledge, skill and judgment,
(b) assessing the member's performance in actual practice settings, simulations or both,
(c) assessing the member's ability to maintain records in relation to his or her practice,
(d) requiring members to participate in continuing education and remediation programs,
(e) such other methods of assessing and maintaining competence as the Council deems to be appropriate.

20.03

The Council or Continuing Competence Committee may appoint members of the College or other persons to assist them in the development, establishment, or administration of the program and may designate such persons as assessors for the purposes of such programs as may be developed and approved to assess the competence of individual members.

20.04 - 20.04A

This section sets out the requirement that the member co-operate in the assessment, and lists, in detail, the extent of the co-operation required. Several participants pointed out that the cooperation of health professionals who are employees and hence do not control access to practice premises and patient records may be insufficient to enable the College to perform an adequate assessment, and that the co-operation of their employers is also necessary. This is addressed in section 20.04A. The cooperation required of employers, employment agencies and associates is limited to permitting access to practice premises and patient records.

20.04

Every member whose standards of practice are the subject of an assessment as part of the continuing competence program shall co-operate fully with the Continuing Competence Committee and with its assessors, and for the purposes of this section the co-operation required of a member includes,

(a) permitting assessors appointed by the Continuing Competence Committee to enter and inspect the premises where the member engages in the practice of the profession;
(b) permitting assessors appointed by the Continuing Competence Committee to inspect the member's records of the care of patients;
(c) providing to the Continuing Competence Committee or its assessors information requested by the Committee or the assessors, as the case may be, in respect of the care of patients by the member or the member's records of the care of patients;
(d) providing the information mentioned in clause (c) in the form requested by the Continuing Competence Committee or its assessors; (e)conferring with the Continuing Competence Committee or its assessors when requested to do so by the Committee or its assessors;
(f) providing to the Continuing Competence Committee such evidence as the Committee may require in respect of the member's participation in a program of continuing education that is provided in relation to the maintenance of the member's standard of competence; and
(g) where so directed by the Continuing Competence Committee, attending at and participating in a program designed to evaluate the knowledge, skill and judgment of the member.

20.04A

Notwithstanding any provision in any Act or regulation providing for the confidentiality or secrecy of health records, paragraphs (a) and (b) of section 20.04 apply, with necessary changes, to every regulated health care institution, employment agency and registry, and to every person, other than a patient, that employs a member of a health profession, associates in partnership or otherwise with a member of a health profession for the purpose of offering health services, or procures employment for a member of a health profession.

20.05

In contrast with disciplinary proceedings, members must actively participate in the assessment of their competence. This cooperation is necessary because it would be extremely difficult, if not impossible, to assess the competence of an individual who is not present, and prepared to answer questions and perform tasks. However, participants should note that the result of the assessment has no direct punitive consequence, and that members will be protected from having information given in the course of the continuing competence assessment used against them in other proceedings that might have the result of limiting their right to practise. The exception to this prohibition is in respect of a prosecution for knowingly giving false information to the Committee or its assessors.

20.05

Information given by or about the member pursuant to sections 20.04 and 20.04A in the course of a continuing competence program shall not be used against the member in any proceeding before the Discipline or Fitness to Practise Committees, except for knowingly giving false information.

20.06

To permit the Committee to deal with practitioners who have been found to be seriously deficient in some respect, the Review recommends that the Committee refer the member to the Executive Committee. Executive Committee referrals might be expected to be relatively rare, as the Review anticipates some voluntary remediation or rehabilitation will be undertaken by the Continuing Competence Committee. Only those members who cannot or will not be restored to competence would need to be referred.

Paragraph (b) has been revised to clarify that where it is believed that the member may be incapacitated, the Executive Committee upon referral from the Continuing Competence Committee may appoint a board of inquiry.

20.06

Notwithstanding section 20.05, the Continuing Competence Committee may,

(a) refer the member to the Executive Committee in respect of the giving of false information or failure to cooperate for the purposes of a determination of whether a referral to the Discipline Committee on the grounds of professional misconduct is warranted;
(b) refer the member to the Executive Committee to determine whether a board of inquiry should be appointed for the purpose of determining whether the member should be referred to the Fitness to Practise Committee in respect of incapacity, or whether a new investigation should be commenced for the purposes of determining whether the member should be referred to the Discipline Committee in respect of professional misconduct or incompetence.

20.07

This section relates to the prohibition against using information contained in section 20.05. Should the Executive Committee decide to refer the matter, it may identify the member and allege a specific deficiency. No further information, including any information gained in the course of the assessment or examining any patient record, may be provided to the Executive Committee. Rather, the Executive Committee will commence its own investigation pursuant to the usual rules, and will base its decision to refer on that investigation alone.

20.07

For the purposes of a referral under section 20.06(b), the Continuing Competence Committee shall identify the member, and allege a specific deficiency, but no further information shall be provided, and where such a referral has been made, the Executive Committee may direct the Registrar to commence an investigation pursuant to the powers contained in section 19.

Section 21 - Confidentiality Provisions

21.01

HDA 41(1), 65(1), 109(1), 134(1); The Review's initial proposal amended the secrecy provision to reflect increased public accessibility and openness. At the suggestion of several participants, the provision has been made expressly applicable to members and employees of the Health Professions Board; this is necessary because of case law excluding the Health Disciplines Board from the ambit of the existing provision.

Paragraph (bb) has been added at the suggestion of a participant to facilitate the sharing of information by governing bodies in Ontario, or with authorities in other jurisdictions.

Paragraph (e) has been amended to require written consent to disclosure of information to be given prior to disclosure.

It should be noted that section 21.01 permits, but does not require, the disclosure of information in the listed circumstances. For example, a Registrar receiving a request for information from a governing body located outside Ontario would exercise discretion in choosing what information to disclose.

21.01

Every person employed in the administration of this Act or the specific Act governing a health profession or group of health professions including any person making an inquiry or investigation under section 19 or section 12.06, any person conducting an assessment under section 20 and any member of the Council or a committee of a College or the Health Professions Board shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of his or her duties, employment, inquiry or investigation under section 19 or section 12.06, and shall not communicate any such matters to any other person except,

(a) insofar as the matters are made public by other sections in this Act or an Act governing a health profession or group of health professions;
(b) as may be required in connection with the administration of this Act or the specific Act governing the health profession or group of health professions and the regulations and by-laws or any proceedings under this Act or the specific Act governing the health profession or group of health professions or the regulations;
(bb) to a College regulating another health profession or group of health professions as designated in Schedule A to this Act in this jurisdiction or any other;
(c) as may be required for the enforcement of the Health Insurance Act;
(d) to his or her counsel; or
(e) with the prior written consent of the person to whom the information relates.

21.02

HDA 41(2), 65(2), 109(2), 134(2), Two participants said the provision should be reworded to prohibit the persons named in section 21.01 from testifying with regard to information coming to their attention in the course of their duties, and to make explicit reference to documents. This appears to be

21.02

No person to whom section 21.01 applies shall be required to give testimony in any proceeding with regard to information obtained by him or her in the course of his or her duties, employment, inquiry or investigation except in a proceeding under this Act or the specific Act governing the health profession or group of health professions or the regulations or by-laws.

unnecessary in view of sections 21.01 and 21.03. However, the Review has removed the word "civil" which modified proceeding which will have the effect of extending the section to include, for example, other administrative proceedings.

21.03

New. In responding to proposals to open complaint review and discipline hearings to the public, a number of participants expressed the concern that injustice might be done to members by patients using the proceedings as a "fishing expedition" or to build a case against a member. The Review still believes that these and other proceedings should be open to the public, and the Review's proposals in this area have been endorsed by the Minister. It is impossible to prevent open proceedings from being used by plaintiffs and potential plaintiffs as a forum for discovery. However, this section would prevent reports, decisions and all other documents and evidence generated for or in the course of such proceedings from being used in evidence against a member in a civil suit or proceeding.

The section should be considered together with sections 13, 14, and 16, which set out the grounds upon which the public may be excluded from discipline committee hearings, Health Professions Board hearings and reviews and fitness to practise hearings, and the grounds upon which the Board may refuse to disclose parts of a complaint record. These grounds include prejudice to anyone involved in an actual criminal or civil proceeding.

At the suggestion of participants, assessments by the Continuing Competence Committee have been added to the section even though there is no provision for assessments to be conducted in public. Finally, a necessary additional exception to the prohibition has been added, proceedings under this Act and the Professional Acts.

21.03

Notwithstanding section 24.01, except on the trial of any person for perjury in respect of his or her sworn testimony and except in a proceeding under this Act or the specific Act governing a health profession or group of health professions, the regulations or bylaws, no record, report, decision, order, writing or other document, and no oral statement, answer or admission given by any person for the purpose of or in the course of a meeting of a Council, a review or hearing by the Health Professions Board, an assessment by a Continuing Competence Committee, or a hearing by a Discipline Committee or Fitness to Practise Committee, is admissible or may be used in evidence in any civil suit or proceeding.

Section 22 - Injunctions

22.01	***22.01***
HDA 42(1), 66(1), 87(1), 110(1), 159(1), no substantive change	Where it appears to a College that any person is not complying with any provision of this Act or the specific Act or regulations governing a health profession or group of health professions, notwithstanding any other provision in this Act and in addition to any other rights it may have, the College may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order as the judge thinks fit.
22.02	***22.02***
HDA 42(2), 66(2), 87(2), 110(2), 159(2), no substantive change. Leave to appeal is not required, nor are the grounds for appeal currently limited in any way. The Review does not propose any change to this. Pursuant to the section 144 of the Courts of Justice Act, the Divisional Court may make any order or decision that the High Court Judge could or ought to have made.	An appeal lies to the Divisional Court from an order made under section 22.01.

Section 23 - Service of Notice

23.01

HDA 14(1) The Review has extended this provision to include all notices served or delivered pursuant to this Act and the Professional Acts and regulations. The reference to documents "required to be" served or delivered has been deleted at the suggestion of participants.

23.01

Except where otherwise provided, any notice or document served or delivered pursuant to this Act, an Act governing a health profession or group of health professions or a regulation made pursuant to those Acts may be served personally or by prepaid first class mail addressed to the person to whom notice is to be given at his or her last known address and, where notice is served by mail, the service shall be deemed to have been made on the fifth day after the day of mailing unless the person to whom notice is given establishes that he or she, acting in good faith, through absence, accident, illness or other cause beyond his or her control, did not receive the notice, or did not receive the notice until a later date.

Section 24 - Evidence

24.01

HDA 15; The new opening words give express recognition to section 21.03, which makes certain documents, records and testimony inadmissable against a member in a negligence or malpractice action.

The section has been extended to include records kept by the Registrar in addition to those "required" by statute to be kept. The review believes this may assist people to prove noncontroversial issues in other forums.

24.02

HDA 19, no substantive change

24.01

Subject to section 21.03, any statement containing information from the records kept by a Registrar in the course of the administration of this Act or an Act governing a health profession or group of health professions purporting to be certified by the Registrar under the seal of the College is admissible in evidence in all courts as prima facie proof of the facts stated therein without proof of the appointment or signature of the Registrar and without proof of the seal.

24.02

Where registration under an Act governing a health profession or group of health professions is required to permit the lawful doing of any act or thing, if in any prosecution it is proven that the accused has done such act or thing, the burden of proving that the accused was so registered under the Act governing the health profession or group of health professions rests upon the accused.

Section 25 - Good Faith Protection

25.01

HDA 16, no substantive change; A single participant said the current provision is too narrow while another said it is too broad. The section is very similar to like provisions in many Ontario statutes. The Review thinks it strikes the appropriate balance between protecting the exercise of statutory powers in good faith and penalizing their exercise in bad faith.

25.01

No action or other proceeding for damages shall be instituted against the Board, a College, a Council, a committee or any member of the Board, Council or committee, or any officers, servants, agents or appointees of the Board or a College for any act done in good faith in the performance or intended performance of any duty or in the exercise or the intended exercise of any power under this Act, or the specific Act governing a health profession or group of health professions, a regulation or a by-law thereunder, or for any neglect or default in the performance or exercise in good faith of such duty or power.

Section 26 - Limitation Period

26.01

HDA 17, no substantive change

26.01

No duly registered member of a College is liable to any action arising out of negligence or malpractice in respect of professional services requested or rendered unless such action is commenced within one year from the date when the person commencing the action knew or ought to have known the fact or facts upon which the person alleges negligence or malpractice.

Section 27 - Licensed Acts

27.01

New; This is the key provision for enforcement of the licensed act model. In the June 1988 proposals, the section's opening words stated the rationale of licensing acts in terms of the potential for harm. These words have now been deleted. They are unnecessary and could conceivably cause confusion. However, words have been added to make explicit the context of the acts being licensed. Paragraphs (1) through (13) list the acts or categories of acts that are licensed.

Paragraph (a) sets out the primary exception to the prohibition. To lawfully perform a licensed act a person must hold a valid and relevant certificate of registration issued by a governing body of a health profession licensed to perform the act in question. The individual Professional Acts list the acts or categories of acts, if any, licensed to each profession.

Paragraph (b) recognizes the potential for delegation of licensed acts. The conditions that must be met for a delegation to be proper are set out in section 27.03. Paragraph (c) was included in the June 1988 proposals to protect a person who unintentionally performs a licensed act while in the course of doing some other act he or she is entitled to perform. The paragraph has been deleted at the suggestion of participants who said that it is unnecessary. The Review believes that prosecutorial discretion will be exercised in such a way that persons committing trivial, unintentional breaches will not be prosecuted. If charges are brought, the defence of de minimis non curat lex will be available.

27.01

No person shall perform any of the following licensed acts in the course of providing, purporting to provide or offering to provide human health care services,

(1) Diagnosis;
(2) Performing procedures on tissue beyond the dermis, beyond the surface of the mucous membranes and in or beyond the surface of the cornea of the eye;
(3) Setting and casting of fractures and dislocations of bones and joints;
(4) Moving the joints of the spine beyond an individual's usual physiological range of motion using a high-velocity, low-amplitude thrust;
(5) Administering substances by injection or inhalation;
(6) Performing invasive instrumentation, including manual and digital instrumentation,
  (a) beyond the external auditory canal;
  (b) beyond the nares;
  (c) beyond the larynx;
  (d) beyond the urinary meatus;
  (e) beyond the labia majora;
  (f) beyond the anal verge;
  (g) into artificial stoma;
(7) Ordering the application of non-ionizing radiation and other potentially harmful forms of energy as specified by regulation;
(8) Prescribing, dispensing, selling or compounding drugs, or supervising the part of a pharmacy in which drugs are kept;
(9) Prescribing or dispensing ophthalmic appliances;
(10) Prescribing personal hearing aids;
(11) Fitting and dispensing fixed and removable prostheses and dental appliances for the oral-facial complex;
(12) Managing labour and conducting deliveries; and
(13) Allergy challenge testing provoking significant allergic response.

unless,

(a) the person is a member of a regulated health profession listed in Schedule A and is specifically authorized by a valid certificate of registration issued by the College of the health profession to perform the licensed act, provided that the act is a licensed act of the health profession of which the person is a member; or

(b) the performance of the licensed act has been delegated pursuant to section 27.03 to the person by a person described in paragraph (a).

(c) deleted

27.01A

New; setting out definitions for technical terms used in section 27.01. The definition of "drug" continues the HDA definition. However, the Schedules referred to in the definition have been relabelled. Scdule D comprises the Scedules under the Pharmacy Act, excluding the Scedule labeled here as C.

27.01A

In this section

(a) "dental appliance" means any device fabricated for use in or about the mouth for the purpose of replacing some or all of the teeth or tooth structure, or realigning, repositioning or stabilizing teeth or hard or soft tissue of the oral-facial complex, or protecting teeth from abnormal function.

(b) "diagnosis" means the communication to a patient or his or her representative of a conclusion as to the cause or identification of a disease, disorder or dysfunction;

(c) "drug" means any substance or preparation containing any substances,

- (i) manufactured, sold or represented for use in,
  1. the diagnosis, treatment, mitigation or prevention of a disease, disorder, abnormal physical or mental state or the symptoms thereof, in humans, animals or fowl, or
  2. restoring, correcting or modifying function in humans, animals or fowl,
- (ii) referred to in Schedule D,
- (iii) listed in a publication named by the regulations, or
- (iv) named in the regulations,

  but does not include,
- (v) any substance or preparation referred to in subclause (i), (ii) or (iii) manufactured, offered for sale or sold as, or as part of, a food, drink or cosmetic,

(vi) any proprietary medicine as defined from time to time by the regulation made under the Food and Drugs Act (Canada) that does not contain any substance or preparation containing any substance referred to in Schedule D,

(vii) a substance or preparation named in Schedule C;

(d) "ophthalmic appliance" means lenses, spectacles, eye glasses, subnormal vision devices, contact lenses or appurtenances thereto for the aid, correction or relief of visual or ocular anomalies of the eye;

(e) "personal hearing aid" means a personal amplification device prescribed for an individual hearing impaired person, consisting of a built in microphone, amplifier, receiver and individual amplifying system, with capability for specification of gain, frequency response and output levels.

27.02

New; the offence provision corresponding to section 27.01. The Review expects governing bodies to assume primary responsibility for prosecuting violations in relation to acts licensed to their profession. Where two or more professions share a licensed act it would be sensible for their governing bodies to co-operate in the prosecution. At the suggestion of participants, the word "corporation" has been added to the section. Although the Interpretation Act states that "person" includes "corporation", it has been held in Britain that a corporation cannot be convicted of the offence of practising medicine without a license.

27.02

A person or corporation who contravenes section 27.01 is guilty of an offence and on conviction is liable to a fine of not more than $25,000 or to imprisonment for a term of not more than six months, or to both.

27.03

New; setting out the requirements for delegation, as referred to in section 27.01 (b). Currently, members of several professions regulated under the HDA may delegate to others the performance of acts within the profession's scope of practice. The HDA requires such delegations to be authorized by regulation, but this has rarely been done. The individual Professional Acts empower Councils to pass regulations dealing with the manner in which delegations may be made and accepted. The section recognizes that acts

27.03

A licensed act may be delegated for the purpose of paragraph (b) of section 27.01 if,

(a) where both the person making and the person accepting the delegation are members of regulated health professions listed in Schedule A, the delegation is carried out in conformity with all the requirements for delegation contained in the Acts governing the health professions of which they are members and the regulations thereunder; or *may be delegated to members of unregulated as well as regulated health professions. In practice, delegations will also be subject to institutional protocols, as they are now.*

(b) where the person making the delegation is a member of a regulated health profession listed in Schedule A and the person accepting the delegation is not, the delegation is carried out in conformity with all the requirements for regulation contained in the Act governing the health profession of which the person making the delegation is a member and the regulations thereunder.

27.03A

New; some licensed acts may be performed by certain health professionals only upon the order of other health professionals. For example, a dental hygienist may perform periodontal scaling and root planing upon the order of a dentist. This section makes it an offence for such licensed acts to be performed in the absence of an order.

27.03A

Where a person is authorized to perform a licensed act upon the order of a health professional legally qualified to make such an order, it is an offence for that person to perform the licensed act without such an order, and a person who makes and order is on conviction liable to a fine of not more than $25,000 or to imprisonment for a term of not more than two years, or to both.

27.03AA

New; setting out who may order another health professional to perform a licensed act.

27.03AA

Where a person is authorized to perform a licensed act upon the order of a health professional legally qualified to make such an order, a person who is authorized to perform the licensed act on his or her own authority as a member of a health profession to whom the licensed act is licensed may make such an order, and any other person who makes an order is on conviction liable to a fine of not more than $25,000 or to imprisonment for a term of not more than two years or both.

27.03B - 27.03C

New; prescribing personal hearing aids is a licensed act, but dispensing them is not. These sections make it an offence to dispense personal hearing aids without a prescription.

27.03B

No person shall dispense a personal hearing aid except under a prescription issued by a person legally qualified to prescribe personal hearing aids.

27.03C

A person who contravenes section 27.03B is guilty of an offence and on conviction is liable to a fine of not more than $25,000 or to imprisonment for a term of not more that two years, or to both.

27.04

New; In commenting on the Review's licensed acts model, a number of participants expressed concern that licensing a series of acts identified as posing significant risks might, of itself, be insufficient to protect the public from harm. There are several reasons for this. The list, however carefully written, might inadvertently omit a hazardous activity. The legislation might not keep pace with the development of hazardous new technologies that do not fit into one of the listed categories. Harm might be done by unscrupulous unregulated practitioners providing "care" that avoids transgressing any particular licensed act.

The section is aimed at preventing harm resulting from treatment or advice provided by persons who are not members of regulated health professions, or who if they are, exceed their scope of practice or licensed acts. Members of regulated health professions who are acting within their general scope of practice, as set out in their Professional Act, or who are performing a specifically authorized licensed act, are not covered by the section even if they cause harm. For example, the dentist who causes harm to a patient while extracting a wisdom tooth could not be prosecuted under this section, while the dentist who causes harm purporting to treat diabetes could be.

The section has been revised substantially from the June 1988 proposal in response to participants' concerns. The word "significant", which modified "harm" in the June 1988 proposal, has been deleted, as has the exception for person exercising reasonable knowledge, skill and care. An inclusive definition of harm is set out in paragraph (c).

27.05

New; the offence provision corresponding to section 27.04. The maximum fine and term of imprisonment reflect the gravity of the offence.

27.04

(1) No person shall treat, offer to treat, or advise in respect of any human health condition in circumstances in which the treatment, offer of treatment or advice, or an omission therefrom, has resulted in harm or may result in a risk of harm.

(2) Subsection (1) does not apply to a person who is a member of a regulated health profession listed in Schedule A where the treatment, offer of treatment or advice is part of the practice of the profession of which the person is a member.

(3) In subsection (1), "harm" includes,

  (a) any or increased physical or mental disease, disorder, dysfunction, injury or pain; and

  (b) death or earlier death.

27.05

A person who contravenes section 27.04 is guilty of an offence and on conviction is liable to a fine of not more than $25,000 or to imprisonment for a term of not more than two years, or to both.

27.06

New in part; listing the exceptions applicable to section 27.01 and section 27.04.

- *(a) New.*
- *(b) HDA 52(2)(a)*
- *(c) HDA 52(2)(b), no substantive change.*
- *(d) HDA 28(3), 52(2)(c), 96(2); reworded; the exception covers programs of study that lead to qualification for a profession, as designated in the relevant regulations.*
- *(e) HDA 52(7), no substantive change.*
- *(f) New; Activities that might be exempted by regulation include acupuncture and earpiercing, and, when done pursuant to the order of a person legally qualified to order the act to be done, urethral catheterizations and venipuncture.*
- *(g) The June 1988 proposals provided an exclusion for consultants from other jurisdictions performing licensed acts in Ontario at the request of members. Many participants disagreed with the exclusion, and it has been deleted. The Review assumes that temporary or other special classes of registration will be used to permit visiting professionals to consult or, where appropriate, to practise in Ontario.*
  The closing words of the section have been slightly changed.

27.06

For the purpose of section 27.01 any act done by a person in the course of,

- (a) treating himself or herself; or
- (b) rendering first aid or temporary assistance in an emergency without a fee; or
- (c) administering household remedies to members of the person's household; or
- (d) engaging in a program of studies to become a member of a regulated health profession to which the act or acts are licensed, by a student under the supervision or direction of a member, provided the program is designated in the regulations passed pursuant to the Act governing the health profession as an educational program the successful completion of which qualifies persons for registration; or
- (e) treating human ailments by the use of prayer or spiritual means in the exercise of a religion in accordance with the tenets of an established church, if the person is an adherent of the religion; or
- (f) engaging in an activity exempted by regulation; or
- (g) deleted

shall be deemed not to be a contravention of section 27.02 or 27.04.

27.07

Deleted. Section 27.06 now makes the exemptions listed in section 27.06 applicable to the general prohibition in section 27.04.

27.07

deleted

27.08

New; giving the Minister the power to make regulations in respect of potentially harmful forms of energy, as referred to in paragraph 7 of section 27.01, and in respect of the exceptions referred to in section 27.06(f).

27.08

Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations,

- (a) specifying potentially harmful forms of energy; and
- (b) exempting persons or activities from the prohibitions contained in section 27.01(1) through (13), and attaching conditions to any such exemption.

27.09

New, requiring regulations proposed by the Minister under section 27.08 to be referred to the Advisory Council and circulated to every College.

27.09

Where the Minister proposes to make a regulation pursuant to section 27.08, the Minister shall refer the proposal to the Advisory Council and shall give written notice thereof to the Council of every health profession listed in Schedule A, and every Council is entitled to make written submissions to the Advisory Council with respect to such proposal within 30 days of the notice or within such other period as the Minister may specify.

Section 28 - Mandatory Reporting

28.01

HDA 86(b) modified and extended. The Review's initial proposal noted that mandatory reporting raises many issues, some of them seemingly irreconcilable. A compromise was proposed, in which the obligation to report was placed on those with some form of control over the member and who have access to information about the member's practice. The obligation was not restricted to employers, but rather was extended to all relationships where information about the quality of the practice is available as of right. Many participants expressed agreement with the principle of the proposal, but indicated that the intended scope of the section was unclear. The section has now been divided into subsections to clarify who is obligated to make a report and the events that trigger the obligation.

In addition to hospitals (which have a similar reporting requirement under the Public Hospitals Act), nursing homes and other regulated health care institutions, and employment agencies, the section applies to partners and associates. Corporations are included in the word "person". The section does not apply to insurers.

The obligation to report is triggered by particular conclusive events. In essence, a report must be made whenever privileges are withdrawn or restricted or employment, partnership or association is terminated for reasons constituting professional misconduct, incapacity or incompetence. The Review accepted the suggestion that reports be in writing, and has maintained a 30-day reporting requirement.
Two participants asked how persons and entities required to report will be informed of their obligation. Members of health professions, health care institutions and all others who play a role in the provision of professional health care services will of necessity familiarize themselves with the new legislation. Ignorance of the mandatory reporting provision will be no defence to failing to make a report just as ignorance of standards of practice is no defence to a charge of failing to meet those standards.

28.01

(a) This section applies to every regulated health care institution, employment agency and registry, and to every person, other than a patient, that employs a member of a health profession, offers privileges to a member of a health profession, associates in partnership or otherwise with a member of a health profession for the purpose of offering health services, or procures employment for a member of a health profession.

(b) Every person and entity referred to in subsection (a), other than a patient, who terminates the employment or revokes, suspends or imposes restrictions on the privileges of a member of a health profession, or who dissolves a partnership or association with a member of a health profession, for reasons purporting to constitute professional misconduct, incompetence or incapacity shall within 30 days of such an event file a written report with the Registrar of the member's College.

28.01A

New; setting out the options available to the Registrar when a report is received. The Registrar may also choose to take no action. Paragraph (c) is intended to relieve the Executive Committee of part of the burden of dealing with reports. It also makes available the Complaints Committee's range of penalties.

28.01A

Upon receipt of a report filed under section 28.01(b) the Registrar may,

(a) commence an investigation pursuant to section 19.01; or
(b) make such inquiries and reports as are contemplated pursuant to section 16.01; or
(c) refer the report to the Complaints Committee for it to take such action as it considers appropriate.

28.02

New; Several participants suggested that the range of fines set out in the section is excessive and that it will lead to a flood of frivolous reports from individuals and institutions anxious to protect themselves from prosecution. However, the amounts specified are maximums. The Review believes a substantial penalty should be available because of the importance of mandatory reporting in ensuring that misconduct, incompetence and incapacity are detected by governing bodies. The maximums must be high enough to deter corporate offenders.

28.02

Every person and entity who contravenes section 28.01 is guilty of an offence and on conviction is liable for the first offence to a fine of not more than $5,000 and for each subsequent offence a fine of not more than $10,000.

28.03

New; The Review agreed with the submission that those who make reports should be protected from civil liability.

28.03

No action or other proceeding shall be instituted against a person or entity for making a report in good faith in accordance with section 28.01.

28.04

New; Participants should note that failure to report a misbehaving, incompetent or incapacitated colleague is not made a matter of professional misconduct in this Act. At present, for example, this may be addressed by passing a regulation which defines professional misconduct to include a failure to make such a report. For example, section 21(j) of Regulation 449 (Nursing), defines professional misconduct to include "failure to report the incompetence of colleagues whose actions endanger the safety of a patient". It is now and will continue to be open to governing bodies to pass regulations of this type and thus to impose disciplinary sanctions on members who do not report their colleagues when they should. As well, many individuals, governing bodies and professional associations may consider this to be a matter of professional or personal ethics.

28.04

Nothing in section 28.01 shall be interpreted to limit the ability of a College to make regulations pursuant to the powers contained in an Act governing a health profession or group of health professions to require its members to comply with additional reporting requirements.

Section 29 - Offenses and Penalties

9.01

Deleted from section 29 and moved to section 27, where it appears as section 27.01.

29.01

deleted

29.02

Deleted from section 29 and moved to section 27, where it appears as section 27.02

29.02

deleted

29.03

HDA 43(2), 67(2), 75(1), (2) and (3);, 112(2), 121(1) and (2); The Review's initial proposals relating to professional titles, circulated in July 1988, set out two tiers of restrictions on the use of titles. The provisions appearing in section 29.03 (a) and (b) applied to all health professions. The provisions appearing in paragraph (c) applied only to dentistry, medicine and optometry. The majority of participants said this distinction was unwarranted, and that the additional restriction should apply to all health professions. The Review agrees with this view, and the section has been rewritten accordingly. It is important for members of the public to be able to distinguish all regulated health professionals.

29.03

No person shall

(a) hold himself or herself out as,
  (i) registered by or with a College, or
  (ii) the holder of a certificate of registration issued by a College, or
  (iii) a member of a College; or
(b) use a title protected in any Act governing a health profession or group of health professions; or
(c) take or use any name, title or description implying or calculated to lead people to infer that the person is qualified or recognized by law as a member of a health profession;

unless the person is authorized to do so pursuant to an Act governing a health profession or group of health professions.

29.03A

The Review's July 1988 proposals restricted use of the title "Doctor" to six professions and required members of three of the six to indicate their profession when using the title in writing. A number of participants submitted that members of other professions with doctorates should be permitted to use the title "Doctor", and that it was insulting to suggest that they would mislead consumers about their profession or be permitted to do so by their College. Against these submissions the Review has balanced the consumer's right not to be confused or misled, especially when seeking primary health care. Section 29.03A now restricts use of "Doctor" to five named professions. However, any person may use the title in a hospital, laboratory or other regulated

29.03A

Notwithstanding any provision in any Act governing a health profession or group of health professions, except in a hospital, nursing home or laboratory approved or licensed under any special or general Act, or in an institution or facility designated in Schedule B, no person shall assume, use or employ the description or the title "doctor" or any affix or prefix indicative of such a title or qualification as an occupational designation relating to the provision of human health care unless authorized to do so pursuant to the Chiropractic Act, the Dentistry Act, the Medicine Act, the Optometry Act or the Psychology Act.

institution. It will be up to Colleges to regulate how their members use the title. It should be noted that the restrictions apply only to persons using the title as an occupational designation relating to the provision of human health care.

29.04

HDA 43(2), 67(2), [88(1)], 112(2), 162(2); At the suggestion of a number of participants, who said the fines proposed by the Review are too low, the Review has amended this section by changing $3,000.00 to $5,000.00 and $5,000.00 to $10,000.00.

29.05

HDA 43(3), 67(3), 112(3), increasing the penalty.

29.06

HDA 18(1), no change.

29.07

HDA 18(2), no change.

29.04

Any person who contravenes section 29.03 or 29.03A is guilty of an offence and on conviction is liable for the first offence to a fine of not more than $5,000, and for each subsequent offence to a fine of not more than $10,000.

29.05

Any person who obstructs a person appointed to make an investigation under section 19 in the course of his or her duties is guilty of an offence and on conviction is liable to a fine not exceeding $10,000.

29.06

Any person who makes or causes to be made any willful falsification in any matter relating to a register or issues a false certificate or document with respect to registration is guilty of an offence and on conviction is liable to a fine of not more than $10,000.

29.07

Any person who willfully procures or attempts to procure himself or herself to be registered under this Act by knowingly making any false representation or declaration or by making a fraudulent representation or declaration, either orally or in writing, is guilty of an offence and on conviction is liable to a fine of not more than $10,000 and every person knowingly aiding and assisting him or her therein is guilty of an offence and on conviction is liable to a fine of not more than $10,000.

29.08

New. The comments of a few participants led the Review to reconsider the appropriate scope of section 29.08. The revised proposal has been reworded for clarity, and the words "governing body", "College" and "Board of Regents" have been deleted. The Review recognizes that the word "College" is part of the name of such certifying bodies as the College of Family Physicians of Canada. The section is intended to prohibit voluntary associations from misleading the public that they are regulatory bodies operating with statutory authority. The term "health professionals", which by reference to the definition of "health professions" in section 1 could be interpreted to mean only members of those professions regulated under this Act, has been replaced by the term "health care provider" to make it clear that the prohibition extends to unregulated professions.

29.08

No person, association or corporation, except those Colleges designated in Schedule A to this Act, or except as provided by another statute, shall pass himself, herself or itself off or hold himself, herself or itself out in a manner that implies or is calculated to lead people to infer that the person or association is governed by this Act or regulates health care providers according to law.

29.09

New; setting the penalty for contravening 29.08.

29.09

Any person, association or corporation that contravenes section 29.08 is guilty of an offence and on conviction is liable for the first offence to a fine of not more than $10,000, and for each subsequent offence to a fine of not more than $20,000.

29.10

New; added at the suggestion of participants who pointed out the need for an enforcement power relating to orders restricting publication or broadcasting of matters disclosed at Council, Discipline Committee and Health Professions Board proceedings.

29.10

Any person who contravenes an order of a Council, Discipline Committee or the Health Professions Board restricting or prohibiting the disclosure, publication, or broadcasting of matters, information or identities, is guilty of an offence and on conviction is liable for the first offence to a fine of not more than $10,000, and for each subsequent offence to a fine of not more than $20,000.

The Audiology and Speech-Language Pathology Act

Section 1 - Definitions

1.01 In this Act

(a) "Advisory Council" means the Health Professions Regulatory Advisory Council as defined by the Health Professions Procedural Code;

(b) "assessment" means the evaluation of a patient's physical or mental state in order to determine whether a treatment within the health professional's scope of practice is appropriate to the patient's condition and if so, in what manner it ought to be applied or administered, and includes communication of evaluation to the patient and his or her representative.

(c) "by-laws" means the by-laws made under this Act;

(d) "certificate of registration" means a certificate authorizing the practice of audiology or speech-language pathology issued under this Act;

(e) "College" means the College of Audiologists and Speech-Language Pathologists of Ontario;

(f) "Council" means the Council of the College of Audiologists and Speech-Language Pathologists of Ontario;

(g) "member" means a member of the College of Audiologists and Speech-Language Pathologists of Ontario;

(h) "personal hearing aid" means a personal amplification device prescribed for an individual hearing impaired person, consisting of a built-in microphone, amplifier, receiver, and individual amplifying system, with the capability for specification of gain, frequency response and output levels.

(i) "Registrar" means the Registrar of the College of Audiologists and Speech-Language Pathologists of Ontario;

(j) "regulations" means the regulations made under this Act.

1.02 Audiology and speech-language pathology are health professions to which this Act and the Health Professions Procedural Code apply and the College of Audiologists and Speech-Language Pathologists of Ontario and its committees are bound by both Acts.

Section 2 - Scope of Practice

2.01 The practice of audiology is the assessment of auditory function and, the treatment and prevention of auditory dysfunction to develop, maintain, rehabilitate or augment auditory and communicative functions.

2.01A The practice of speech-language pathology is the assessment of speech and language function and the treatment and prevention of speech and language dysfunctions or disorders to develop, maintain, rehabilitate or augment oral motor or communicative functions.

2.01B In the course of practising as an audiologist, a member who is an audiologist may perform the following licensed act:

(1) Prescribing personal hearing aids.

2.02 Subject to the regulations passed pursuant to this Act, no person except a member shall

(a) hold himself or herself out as,
  (i) registered by or with the College of Audiologists and Speech-Language Pathologists of Ontario, or
  (ii) the holder of a certificate of registration issued by the College of Audiologists and Speech-Language Pathologists of Ontario, or
  (iii) a member of the College of Audiologists and Speech-language Pathologists of Ontario, or
(b) use the title "audiologist", "registered audiologist", "speech-language pathologist", or "registered speech-language pathologist".

2.03 When in any proceeding an issue arises as to the interpretation of section 2.01, 2.01A or 2.01B, the Court may have regard to the expert evidence adduced by the parties with respect thereto.

Section 3 - College Structure

3.01 The College of Audiology and Speech-Language Pathology of Ontario is a College as set out in the Health Professions Procedural Code.

3.02 The Council shall be composed of

(a) not fewer than 6 and not more than 10 persons who are members elected in the number and manner determined by the regulations;
(b) not fewer than 4 and not more than 6 persons who are not members of the Council of a health profession as designated by the Health Professions Procedural Code or registered under this Act or any other Act governing a health profession and are appointed by the Lieutenant Governor in Council; and
(c) two persons who are members of the College and members of a faculty of speech-language pathology or audiology of a university in Ontario that conducts a course in either or both, and is authorized to grant degrees in either or both of speech-language pathology or audiology, chosen in the manner determined by the regulations.

3.03 Subject to the regulations, every member who,

(a) practises or resides in Ontario; and
(b) is not in default of payment of the annual fee prescribed by the regulations; and
(c) is a holder of a certificate of registration in good standing;

is qualified to vote at an election of members of the Council.

3.04 The Council shall elect annually a President and Vice-President from among its members.

Section 4 - Committee Composition

4.01 The Executive Committee shall be composed of,

(a) the President, who shall be Chairman of the Committee;
(b) the Vice-President;
(c) 2 members of the Council who are members of the College; and
(d) 1 member of the Council who is appointed by the Council by the Lieutenant Governor in Council.

4.02 The Registration Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College chosen in the manner determined by the regulations.

4.03 The Complaints Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College chosen in the manner determined by the regulations.

4.04 The Discipline Committee shall be composed of,

(a) 3 members of the Council who are members of the College;
(b) 2 members of the Council who are appointed to the Council by the Lieutenant Governor in Council; and
(c) 5 persons who are members of the College chosen in the manner determined by the regulations.

4.05 The Fitness to Practise Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College chosen in the manner determined by the regulations.

4.06 The Continuing Competence Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College chosen in the manner determined by the regulations.

Section 5 - Regulation-Making Powers

5.01 Subject to approval by the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

(a) fixing the number of members to be elected to the Council, the proportions thereof who shall be audiologists and speech language pathologists and establishing electoral districts and regional representation for elections;
(b) respecting and governing the selection, terms of office and conditions of disqualification for members of a committee or committees who are not members of Council;
(c) respecting and governing the qualifications, nomination, election and terms of office of the members to be elected to the Council, and controverted elections;
(d) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;
(e) respecting any matter ancillary to the provisions of this Act with regard to the issuing, suspension and revocation of certificates of registration;
(f) prescribing classes of certificates of registration and governing the requirements and qualifications for the issuing of certificates of registration or any class thereof and prescribing the terms and conditions thereof;
(g) providing for the maintenance and inspection of registers, prescribing information on the register which is open to inspection by the public, and providing for the issuance of certificates of standing by the Registrar;
(h) governing standards of practice for the profession in respect of its scope of practice, and prohibiting acting beyond the scope of practice in the course of acting as a member of the profession;
(i) prescribing the records that shall be kept in respect of the member's practice;
(j) requiring and providing for the inspection and examination of any premises used in connection with the practice of audiology and speech-language pathology and equipment, books, accounts, reports, and records of members in connection with their practice;
(k) prohibiting the practice of the professions where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
(k^1)defining the activities that constitute a conflict of interest for Council and committee members in the course of their duties as officials of the governing body;
(l) defining professional misconduct for the purposes of this Act;
(m)defining good standing for the purposes of this Act;
(n) providing for a continuing competence program and requiring members to participate in such a program;
(o) providing for the assessment of the standards of practice, qualifications and continuing education of members;

(p) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;

(q) respecting the reporting and publication of decisions of statutory committees;

(r) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;

(r^1) requiring the making of returns of information by members of the College in respect of names, addresses, telephone numbers, associates, partners, employees, locations of professional practice and professional activities, and prescribing and requiring the use of forms of such returns;

(s) respecting the duties and authority of the Registrar;

(t) requiring the payment of fees by members in respect of maintaining their certificate of registration, and fees for registration, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;

(u) prescribing forms for the purposes of this Act and providing for their use;

(v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable;

(w) providing for the expiration of certificates and governing the requirements and qualifications for the issuing and renewal of certificates;

(x) prescribing the minimum requirements for professional liability insurance or protection, requiring the delivery to the Registrar of proof of such insurance or protection, and prescribing the form of such proof and the manner and time of the delivery;

(y) providing for the giving of notices of public meetings and hearings, and prescribing for that purpose the persons and agencies that are to be given notice, the manner and form in which notice is to be given, and the information that must be contained therein;

(z) providing for the manner in which licensed acts may be delegated to its members.

5.02 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting a health profession, the Minister shall distribute the proposals to the Council of each health profession and each Council shall be entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.03 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting audiology and speech-language pathology, the Registrar shall distribute the proposals to each member, and all members are entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.04 Notwithstanding the requirements in section 5.02 and 5.03, the Minister may modify any notice requirement or time period provided for comment where the Minister determines that the public interest requires him or her to do so.

5.05 Notwithstanding section 5.03, no minor and inadvertent failure to provide notice shall be relied on to invalidate a change in legislation or regulations once passed.

Section 6 - Bylaw-Making Powers

6.01 The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act or the Health Professions Procedural Code and the regulations and without limiting the generality of the foregoing,

(a) prescribing the seal of the College;
(b) providing for the execution of documents by the College;
(c) respecting banking and finance;
(d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
(e) providing procedures for the election of President and Vice-President of the College, the selection of Chairman of each of the committees, the filling of a vacancy in those offices, and prescribing the duties and powers of the President, Vice-President, and Chairmen;
(f) respecting the calling, holding and conducting of meetings of the Council and duties of members of the Council;
(g) respecting the calling, holding and conducting of meetings of the membership of the College;
(h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
(i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
(j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
(k) providing for a code of ethics;
(l) providing for the appointment of inspectors for the purposes of this Act;
(m) prescribing forms and providing for their use;
(n) providing procedures for the making, amending and revoking of the by-laws;
(o) respecting management of the property of the College;
(p) respecting the application of the funds of the College and the reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
(q) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;

(r) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;

(s) authorizing the making of grants for any purpose that may tend to advance scientific knowledge or audiology and speech-language pathology education, or maintain or improve the standards of practice in audiology and speech-language pathology or to support and encourage public information and interest in the past and present role of audiology and speech-language pathology in society;

(t) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

6.02 A copy of the by-laws made under section 6.01 and amendments thereto,

(a) shall be forwarded to the Minister;
(b) shall be forwarded to each member; and
(c) shall be available for public inspection in the office of the College.

6.03 Any by-law or resolution signed by all members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for the purpose.

Section 7 - Interim Orders

7.01 The Executive Committee, in the circumstances set out in section 7.02, by order may suspend the certificate of registration of a member or may impose such restrictions on the certificate of registration of a member as the Committee designates.

7.02 The Executive Committee may make an order under section 7.01 where the Committee has received a report in writing by the Registrar with respect to the conduct or actions of the member, has considered the explanations and representations in writing, if any, under Section 7.03 of the member and is of the opinion that the conduct or actions of the member expose or are likely to expose to harm or injury persons who are or who become patients of the member.

7.03 No action shall be taken by the Executive Committee under section 7.01 unless the member has been given at least two weeks in which to submit in writing to the Executive Committee any explanations or representations the member may wish to make.

7.04 Where an order is made under section 7.01, the College shall commence proceedings expeditiously before the Discipline Committee in respect of the conduct or actions, or both, of the member and shall prosecute the matter expeditiously.

7.05 The Discipline Committee shall give precedence to and hear and determine proceedings commenced under section 7.04 at as early a date as possible.

7.06 A member whose certificate of registration has been suspended who is of the opinion that the College has not commenced proceedings expeditiously before the Discipline Committee or is not prosecuting the matter expeditiously as required by section 7.04 or that the Discipline Committee is not giving precedence to and hearing and determining the matter at as early a date as possible as required by section 7.05 may make application to the Court for judicial review.

7.07 An application under section 7.06 may be made without leave and the court shall treat the application as a case of urgency where delay is unlikely to involve a failure of justice and the court may give such directions as the court believes proper for expediting the proceedings mentioned in section 7.06 or may make such order as the court considers proper in the matter.

7.08 An order under section 7.01

(a) shall be in writing;
(b) shall state that it is made under this section; and
(c) shall set out sections 7.04 to 7.07.

7.09 An order under section 7.01 continues in force until the matter is disposed of by the Disclipline Committee.

The Chiropody Act

Section 1 - Definitions

1.01 In this Act

(a) "Advisory Council" means the Health Professions Regulatory Advisory Council as defined by the Health Professions Procedural Code;
(b) "assessment" means the evaluation of a patient's physical or mental state in order to determine whether a treatment within the health professional's scope of practice is appropriate to the patient's condition and if so, in what manner it ought to be applied or administered, and includes communication of evaluation to the patient and his or her representative;
(c) "by-laws" means the by-laws made under this Act;
(d) "certificate of registration" means a certificate authorizing the practice of chiropody issued under this Act;
(e) "College" means the College of Chiropodists of Ontario;
(f) "Council" means the Council of the College of Chiropodists of Ontario;
(g) "member" means a member of the College of Chiropodists of Ontario;
(h) "Registrar" means the Registrar of the College of Chiropodists of Ontario;
(i) "regulations" means the regulations made under this Act.

1.02 Chiropody is a health profession to which this Act and the Health Professions Procedural Code apply and the College of Chiropodists of Ontario and its committees are bound by both Acts.

Section 2 - Scope of Practice

2.01 The practice of chiropody is the assessment of the foot, and the treatment and prevention of disease, dysfunctions, or disorders, of the foot by therapeutic, orthotic or palliative means.

2.01A In the course of practising as a chiropodist, a member who is a chiropodist or a podiatrist may perform the following licensed acts:

(1) Cutting into subcutaneous tissue to treat conditions of the foot.
(2) Administering local anesthetics and other medication as specified by regulation by injection into the foot.
(3) Prescribing certain drugs as specified by regulation.

2.01B In the course of practising as a chiropodist, a member who is a podiatrist may perform the following licensed acts:

(1) Cutting into osseous tissue of the metatarsals and toes of the foot, including osteotomies and joint surgery including such diagnosis as is necessarily ancillary thereto.

2.02 Every certificate of registration issued under the Chiropody Act, being Chapter 72 of the Revised Statutes of Ontario, 1980 and in effect immediately before the ___ day of____, 19__ continues in the same manner as if issued under this Act until it expires or is revoked, suspended or cancelled under this Act.

2.03 Subject to the regulations passed pursuant to this Act, no person except a member shall

(a) hold himself or herself out as,
    (i) registered by or with the College of Chiropodists of Ontario, or
    (ii) the holder of a certificate of registration issued by the College of Chiropodists of Ontario, or
    (iii)a member of the College of Chiropodists of Ontario, or
(b) use the title "chiropodist", "registered chiropodist", "podiatrist", or "registered podiatrist".

2.04 When in any proceeding an issue arises as to the interpretation of section 2.01, 2.01A or 2.01B, the Court may have regard to the expert evidence adduced by the parties with respect thereto.

Section 3 - College Structure

3.01 The Board of Regents of Chiropody is continued as the College of Chiropodists of Ontario which is a College as set out in the Health Professions Procedural Code.

3.02 The Council shall be composed of

(a) not fewer than 7 and not more than 10 persons who are members elected in the number and manner determined by the regulations;
(b) not fewer than 4 and not more than 6 persons who are not members of the Council of a health profession as designated by the Health Professions Procedural Code or registered under this Act or any other Act governing a health profession and are appointed by the Lieutenant Governor in Council; and
(c) not fewer than 1 and not more than 2 persons who are members of the College and members of a faculty of chiropody of an educational institution in Ontario that conducts a course in chiropody and is authorized to grant a diploma or degree in chiropody, chosen in the number and manner determined by the regulations.

3.03 Subject to the regulations, every member who,

(a) practises or resides in Ontario; and
(b) is not in default of payment of the annual fee prescribed by the regulations; and
(c) is a holder of a certificate of registration in good standing;

is qualified to vote at an election of members of the Council.

3.04 The Council shall elect annually a President and two Vice-Presidents from among its members.

Section 4 - Committee Composition

4.01 The Executive Committee shall be composed of,

(a) the President, who shall be Chairman of the Committee;
(b) the two Vice-Presidents;
(c) 1 member of the Council who is a member of the College; and
(d) 1 member of the Council who is appointed by the Council by the Lieutenant Governor in Council.

4.02 The Registration Committee shall be composed of,

(a) 2 members of the Council who are members of the College; and
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council.

4.03 The Complaints Committee shall be composed of,

(a) 2 members of the Council who are members of the College; and
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council.

4.04 The Discipline Committee shall be composed of,

(a) 3 members of the Council who are members of the College;
(b) 2 members of the Council who are appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College chosen in the manner determined by the regulations.

4.05 The Fitness to Practise Committee shall be composed of,

(a) 2 members of the Council who are members of the College; and
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council.

4.06 The Continuing Competence Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College chosen in the manner determined by the regulations.

4.07 The Council may give the Chiropody Review Committee under the Health Insurance Act such other duties as the Council considers appropriate and are not inconsistent with its duties under that Act.

Section 5 - Regulation-Making Powers

5.01 Subject to approval by the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

(a) fixing the number of members to be elected to the Council, the proportions thereof who shall be chiropodists and podiatrists and establishing electoral districts and regional representation for elections;
(b) respecting and governing the selection, terms of office and conditions of disqualification for members of a committee or committees who are not members of Council;
(c) respecting and governing the qualifications, nomination, election and terms of office of the members to he elected to the Council, and controverted elections;
(d) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;
(e) respecting any matter ancillary to the provisions of this Act with regard to the issuing, suspension and revocation of certificates of registration;
(f) prescribing classes of certificates of registration and governing the requirements and qualifications for the issuing of certificates of registration or any class thereof and prescribing the terms and conditions thereof;
(g) providing for the maintenance and inspection of registers, prescribing information on the register which is open to inspection by the public, and providing for the issuance of certificates of standing by the Registrar;
(h) governing standards of practice for the profession in respect of its scope of practice, and prohibiting acting beyond the scope of practice in the course of acting as a member of the profession;
(i) prescribing the records that shall be kept in respect of the member's practice;
(j) requiring and providing for the inspection and examination of any premises used in connection with the practice of chiropody and equipment, books, accounts, reports, and records of members in connection with their practice;
(k) prohibiting the practice of the profession where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
(k^1)defining the activities that constitute a conflict of interest for Council and committee members in the course of their duties as officials of the governing body;
(l) defining professional misconduct for the purposes of this Act;
(m)defining good standing for the purposes of this Act;
(n) providing for a continuing competence program and requiring members to participate in such a program;
(o) providing for the assessment of the standards of practice, qualifications and continuing education of members;
(p) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;
(q) respecting the reporting and publication of decisions of statutory committees;

(r) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;

(r[1]) requiring the making of returns of information by members of the College in respect of names, addresses, telephone numbers, associates, partners, employees, locations of professional practice and professional activities, and prescribing and requiring the use of forms of such returns;

(s) respecting the duties and authority of the Registrar;

(t) requiring the payment of fees by members in respect of maintaining their certificate of registration, and fees for registration, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;

(u) prescribing forms for the purposes of this Act and providing for their use;

(v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable;

(w) providing for the expiration of certificates and governing the requirements and qualifications for the issuing and renewal of certificates;

(x) prescribing drugs that may be used in the practice of chiropody for such purposes as specified;

(y) prescribing the minimum requirements for professional liability insurance or protection, requiring the delivery to the Registrar of proof of such insurance or protection, and prescribing the form of such proof and the manner and time of the delivery;

(z) providing for the giving of notices of public meetings and hearings, and prescribing for that purpose the persons and agencies that are to be given notice, the manner and form in which notice is to be given, and the information that must be contained therein;

(aa) providing for the manner in which licensed acts may be delegated to its members.

5.02 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting a health profession, the Minister shall distribute the proposals to the Council of each health profession and each Council shall be entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.03 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting chiropody, the Registrar shall distribute the proposals to each member, and all members are entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.04 Notwithstanding the requirements in section 5.02 and 5.03, the Minister may modify any notice requirement or time period provided for comment where the Minister determines that the public interest requires him or her to do so.

5.05 Notwithstanding section 5.03, no minor and inadvertent failure to provide notice shall be relied on to invalidate a change in legislation or regulations once passed.

Section 6 - Bylaw-Making Powers

6.01 The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act or the Health Professions Procedural Code and the regulations and without limiting the generality of the foregoing,

(a) prescribing the seal of the College;
(b) providing for the execution of documents by the College;
(c) respecting banking and finance;
(d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
(e) providing procedures for the election of President and Vice-President of the College, the selection of Chairman of each of the committees, the filling of a vacancy in those offices, and prescribing the duties and powers of the President, Vice-President, and Chairmen;
(f) respecting the calling, holding and conducting of meetings of the Council and duties of members of the Council;
(g) respecting the calling, holding and conducting of meetings of the membership of the College;
(h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
(i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
(j) delegating to the Executive Committee such powers and duties of the Council as are set out in the bylaw, other than the power to make, amend or revoke regulations and by-laws;
(k) providing for a code of ethics;
(l) providing for the appointment of inspectors for the purposes of this Act;
(m) prescribing forms and providing for their use;
(n) providing procedures for the making, amending and revoking of the by-laws;
(o) respecting management of the property of the College;
(p) respecting the application of the funds of the College and the reinvestment of any of its funds not immediately required, and for the safekeeping of its securities;
(q) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
(r) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;

(s) authorizing the making of grants for any purpose that may tend to advance scientific knowledge or chiropody education, or maintain or improve the standards of practice in chiropody or to support and encourage public information and interest in the past and present role of chiropody in society;

(t) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

6.02 A copy of the by-laws made under 6.01 and amendments thereto,

(a) shall be forwarded to the Minister;
(b) shall be forwarded to each member; and
(c) shall be available for public inspection in the office of the College.

6.03 Any by-law or resolution signed by all members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for the purpose.

Section 7 - Interim Orders

7.01 The Executive Committee, in the circumstances set out in section 7.02, by order may suspend the certificate of registration of a member or may impose such restrictions on the certificate of registration of a member as the Committee designates.

7.02 The Executive Committee may make an order under section 7.01 where the Committee has received a report in writing by the Registrar with respect to the conduct or actions of the member, has considered the explanations and representations in writing, if any, under section 7.03 of the member and is of the opinion that the conduct or actions of the member expose or are likely to expose to harm or injury persons who are or who become patients of the member.

7.03 No action shall be taken by the Executive Committee under section 7.01 unless the member has been given at least two weeks in which to submit in writing to the Executive Committee any explanations or representations the member may wish to make.

7.04 Where an order is made under section 7.01, the College shall commence proceedings expeditiously before the Discipline Committee in respect of the conduct or actions, or both, of the member and shall prosecute the matter expeditiously.

7.05 The Discipline Committee shall give precedence to and hear and determine proceedings commenced under section 7.04 at as early a date as possible.

7.06 A member whose certificate of registration has been suspended who is of the opinion that the College has not commenced proceedings expeditiously before the Discipline Committee or is not prosecuting the matter expeditiously as required by section 7.04 or that the Discipline Committee is not giving precedence to and hearing and determining the matter at as early a date as possible as required by section 7.05 may make application to the Court for judicial review.

7.07 An application under section 7.06 may be made without leave and the court shall treat the application as a case of urgency where delay is likely to involve a failure of justice and the court may give such directions as the court believes proper for expediting the proceedings mentioned in section 7.06 or may make such order as the court considers proper in the matter.

7.08 An order under section 7.01

(a) shall be in writing;
(b) shall state that it is made under this section; and
(c) shall set out sections 7.04 to 7.07.

7.09 An order under section 7.01 continues in force until the matter is disposed of by the Discipline Committee.

The Chiropractic Act

Section 1 - Definitions

1.01 In this Act

(a) "Advisory Council" means the Health Professions Regulatory Advisory Council as defined by the Health Professions Procedural Code;
(b) "assessment" means the evaluation of a patient's physical or mental state in order to determine whether a treatment within the health professional's scope of practice is appropriate to the patient's condition and if so, in what manner it ought to be applied or administered, and includes communication of evaluation to the patient and his or her representative;
(c) "by-laws" means the by-laws made under this Act;
(d) "certificate of registration" means a certificate authorizing the practice of chiropractic issued under this Act;
(e) "College" means the College of Chiropractors of Ontario;
(f) "Council" means the Council of the College of Chiropractors of Ontario;
(g) "member" means a member of the College of Chiropractors of Ontario;
(h) "Registrar" means the Registrar of the College of Chiropractors of Ontario;
(i) "regulations" means the regulations made under this Act.

1.02 Chiropractic is a health profession to which this Act and the Health Professions Procedural Code apply and the College of Chiropractors of Ontario and its committees are bound by both Acts.

Section 2 - Scope of Practice

2.01 The practice of chiropractic is the assessment of conditions related to the spine, nervous system and joints of the extremities and the diagnosis, treatment and prevention of dysfunctions or disorders arising from the structures or functions of the spine and their effects on the nervous system, primarily by the adjustment of the spinal column or other joints to enhance function.

2.01A In the course of practising as a chiropractor, a member may perform the following licensed acts:

(1) Diagnosis of dysfunctions or disorders arising from the structures or functions of the spine and their effects on the nervous system.
(2) Moving the joints of the spine beyond an individual's usual physiological range of motion using a high-velocity, low-amplitude thrust.

2.02 Every person who was registered as a chiropractor under the Drugless Practitioners Act, being Chapter 127 of the Revised Statutes of Ontario, 1980 immediately before the ___ day of ___, 19__ shall be deemed to be the holder of a certificate of registration under this Act until it expires or is revoked, suspended or cancelled under this Act.

2.03 Subject to the regulations passed pursuant to this Act, no person except a member shall

(a) hold himself or herself out as,
    (i) registered by or with the College of Chiropractors of Ontario, or
    (ii) the holder of a certificate of registration issued by the College of Chiropractors of Ontario, or
    (iii)a member of the College of Chiropractors of Ontario, or
(b) use the title “chiropractor” or “registered chiropractor”
(c) assume, use or employ the description of the title "doctor" or any affix or prefix indicative of such a title or qualification as an occupational designation relating to the provision of human health care unless authorized to do so pursuant to the Medicine Act, the Dentistry Act, the Optometry Act or the Psychology Act.

2.04 When in any proceeding an issue arises as to the interpretation of section 2.01 or 2.01A, the Court may have regard to the expert evidence adduced by the parties with respect thereto.

Section 3 - College Structure

3.01 The Board of Directors of Chiropractic is continued as the College of Chiropractors of Ontario which is a College as set out in the Health Professions Procedural Code.

3.02 The Council shall be composed of

(a) not fewer than 8 and not more than 12 persons who are members elected in the number and manner determined by the regulations; and

(b) not fewer than 4 and not more than 6 persons who are not members of the Council of a health profession as designated by the Health Professions Procedural Code or registered under this Act or any other Act governing a health profession and are appointed by the Lieutenant Governor in Council.

3.03 Subject to the regulations, every member who,

(a) practises or resides in Ontario; and
(b) is not in default of payment of the annual fee prescribed by the regulations; and
(c) is a holder of a certificate of registration in good standing;

is qualified to vote at an election of members of the Council.

3.04 The Council shall elect annually a President and Vice-President from among its members.

Section 4 - Committee Composition

4.01 The Executive Committee shall be composed of,

(a) the President, who shall be Chairman of the Committee;
(b) the Vice-President;
(c) 2 members of the Council who are members of the College; and
(d) 1 member of the Council who is appointed by the Council by the Lieutenant Governor in Council.

4.02 The Registration Committee shall be composed of,

(a) 2 members of the Council who are members of the College; and
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council.

4.03 The Complaints Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 1 person who is a member of the College chosen in the manner determined by the regulations.

4.04 The Discipline Committee shall be composed of,

(a) 3 members of the Council who are members of the College;
(b) 2 members of the Council who are appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College chosen in the manner determined by the regulations.

4.05 The Fitness to Practise Committee shall be composed of,

(a) 2 members of the Council who are members of the College; and
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council.

4.06 The Continuing Competence Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College chosen in the manner determined by the regulations.

4.07 The Council may give the Chiropractic Review Committee under the Health Insurance Act such other duties as the Council considers appropriate and are not inconsistent with its duties under that Act.

Section 5 - Regulation-Making Powers

5.01 Subject to approval by the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

(a) fixing the number of members to be elected to the Council and establishing electoral districts and regional representation for elections;

(b) respecting and governing the selection, terms of office and conditions of disqualification for members of a committee or committees who are not members of Council;

(c) respecting and governing the qualifications, nomination, election and terms of office of the members to be elected to the Council, and controverted elections;

(d) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;

(e) respecting any matter ancillary to the provisions of this Act with regard to the issuing, suspension and revocation of certificates of registration;

(f) prescribing classes of certificates of registration and governing the requirements and qualifications for the issuing of certificates of registration or any class thereof and prescribing the terms and conditions thereof;

(g) providing for the maintenance and inspection of registers, prescribing information on the register which is open to inspection by the public, and providing for the issuance of certificates of standing by the Registrar;

(h) governing standards of practice for the profession in respect of its scope of practice, and prohibiting acting beyond the scope of practice in the course of acting as a member of the profession;

(i) prescribing the records that shall be kept in respect of the member's practice;

(j) requiring and providing for the inspection and examination of any premises used in connection with the practice of chiropractic and equipment, books, accounts, reports, and records of members in connection with their practice;

(k) prohibiting the practice of the profession where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;

(k^1)defining the activities that constitute a conflict of interest for Council and committee members in the course of their duties as officials of the governing body;

(l) defining professional misconduct for the purposes of this Act;

(m)defining good standing for the purposes of this Act;

(n) providing for a continuing competence program and requiring members to participate in such a program;

(o) providing for the assessment of the standards of practice, qualifications and continuing education of members;

(p) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;

(q) respecting the reporting and publication of decisions of statutory committees;

(r) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;

(r[1])requiring the making of returns of information by members of the College in respect of names, addresses, telephone numbers, associates, partners, employees, locations of professional practice and professional activities, and prescribing and requiring the use of forms of such returns;

(s) respecting the duties and authority of the Registrar;

(t) requiring the payment of fees by members in respect of maintaining their certificate of registration, and fees for registration, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;

(u) prescribing forms for the purposes of this Act and providing for their use;

(v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable;

(w) providing for the expiration of certificates and governing the requirements and qualifications for the issuing and renewal of certificates;

(x) prescribing the minimum requirements for professional liability insurance or protection, requiring the delivery to the Registrar of proof of such insurance or protection, and prescribing the form of such proof and the manner and time of the delivery;

(y) providing for the giving of notices of public meetings and hearings, and prescribing for that purpose the persons and agencies that are to be given notice, the manner and form in which notice is to be given, and the information that must be contained therein.

5.02 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting a health profession, the Minister shall distribute the proposals to the Council of each health profession and each Council shall be entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.03 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting chiropractic, the Registrar shall distribute the proposals to each member, and all members are entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.04 Notwithstanding the requirements in section 5.02 and 5.03, the Minister may modify any notice requirement or time period provided for comment where the Minister determines that the public interest requires him or her to do so.

5.05 Notwithstanding section 5.03, no minor and inadvertent failure to provide notice shall be relied on to invalidate a change in legislation or regulations once passed.

Section 6 - Bylaw-Making Powers

6.01 The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act or the Health Professions Procedural Code and the regulations and without limiting the generality of the foregoing,

(a) prescribing the seal of the College;
(b) providing for the execution of documents by the College;
(c) respecting banking and finance;
(d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
(e) providing procedures for the election of President and Vice-President of the College, the selection of Chairman of each of the committees, the filling of a vacancy in those offices, and prescribing the duties and powers of the President, Vice-President, and Chairmen;
(f) respecting the calling, holding and conducting of meetings of the Council and duties of members of the Council;
(g) respecting the calling, holding and conducting of meetings of the membership of the College;
(h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
(i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
(j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
(k) providing for a code of ethics;
(l) providing for the appointment of inspectors for the purposes of this Act;
(m) prescribing forms and providing for their use;
(n) providing procedures for the making, amending and revoking of the by-laws;
(o) respecting management of the property of the College;
(p) respecting the application of the funds of the College and the reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
(q) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
(r) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;

(s) authorizing the making of grants for any purpose that may tend to advance scientific knowledge or chiropractic education, or maintain or improve the standards of practice in chiropractic or to support and encourage public information and interest in the past and present role of chiropractic in society;

(t) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

6.02 A copy of the by-laws made under 6.01 and amendments thereto,

(a) shall be forwarded to the Minister;
(b) shall be forwarded to each member;
(c) shall be available for public inspection in the office of the College.

6.03 Any by-law or resolution signed by all members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for the purpose.

Section 7 - Interim Orders

7.01 The Executive Committee, in the circumstances set out in section 7.02, by order may suspend the certificate of registration of a member or may impose such restrictions on the certificate of registration of a member as the Committee designates.

7.02 The Executive Committee may make an order under section 7.01 where the Committee has received a report in writing by the Registrar with respect to the conduct or actions of the member, has considered the explanations and representations in writing, if any, under Section 7.03 of the member and is of the opinion that the conduct or actions of the member expose or are likely to expose to harm or injury persons who are or who become patients of the member.

7.03 No action shall be taken by the Executive Committee under section 7.01 unless the member has been given at least two weeks in which to submit in writing to the Executive Committee any explanations or representations the member may wish to make.

7.04 Where an order is made under section 7.01, the College shall commence proceedings expeditiously before the Discipline Committee in respect of the conduct or actions, or both, of the member and shall prosecute the matter expeditiously.

7.05 The Discipline Committee shall give precedence to and hear and determine proceedings commenced under section 7.04 at as early a date as possible.

7.06 A member whose certificate of registration has been suspended who is of the opinion that the College has not commenced proceedings expeditiously before the Discipline Committee or is not prosecuting the matter expeditiously as required by section 7.04 or that the Discipline Committee is not giving precedence to and hearing and determining the matter at as early a date as possible as required by section 7.05 may make application to the Court for judicial review.

7.07 An application under section 7.06 may be made without leave and the court shall treat the application as a case of urgency where delay is likely to involve a failure of justice and the court may give such directions as the court believes proper for expediting the proceedings mentioned in section 7.06 or may make such order as the court considers proper in the matter.

7.08 An order under section 7.01

(a) shall be in writing;
(b) shall state that it is made under this section; and
(c) shall set out sections 7.04 to 7.07.

7.09 An order under section 7.01 continues in force until the matter is disposed of by the Discipline Committee.

The Dental Hygiene Act

Section 1 - Definitions

1.01 In this Act

(a) "Advisory Council" means the Health Professions Regulatory Advisory Council as defined by the Health Professions Procedural Code;
(b) "Assessment" means the evaluation of a patient's physical or mental state in order to determine whether a treatment within the health professional's scope of practice is appropriate to the patient's condition and if so, in what manner it ought to be applied or administered, and includes communication of evaluation to the patient and his or her representative;
(c) "by-laws" means the by-laws made under this Act;
(d) "certificate of registration" means a certificate authorizing the practice of dental hygiene issued under this Act;
(e) "College" means the College of Dental Hygienists of Ontario;
(f) "Council" means the Council of the College of Dental Hygienists of Ontario;
(g) "member" means a member of the College of Dental Hygienists of Ontario;
(h) "Registrar" means the Registrar of the College of Dental Hygienists of Ontario;
(i) "regulations" means the regulations made under this Act.

1.02 Dental hygiene is a health profession to which this Act and the Health Professions Procedural Code apply and the College of Dental Hygienists of Ontario and its committees are bound by both Acts.

Section 2 - Scope of Practice

2.01 The practice of dental hygiene is the assessment of teeth and adjacent tissues and treatment by preventive and therapeutic measures and the provision of restorative and orthodontic procedures and services upon the order of a dentist.

2.01A In the course of practising as a dental hygienist, a member may perform the following licensed acts:

(1) Performing periodontal scaling and root planing when an order authorizing the performance of this act or procedure in relation to a patient has been made by a dentist.
(2) Performing orthodontic and restorative procedures when an order authorizing the performance of this act or procedure in relation to a patient has been made by a dentist.

2.02 Every person who was registered as a dental hygienist under Regulation 446 issued under the Health Disciplines Act, being Chapter 196 of the Revised Statutes of Ontario, 1980 immediately before the day of , 19__ shall be deemed to be the holder of a certificate of registration under this Act until it expires or is revoked, suspended or cancelled under this Act.

2.03 Subject to the regulations passed pursuant to this Act, no person except a member shall

(a) hold himself or herself out as,
  (i) registered by or with the College of Dental Hygienists of Ontario, or
  (ii) the holder of a certificate of registration issued by the College of Dental Hygienists of Ontario, or
  (iii)a member of the College of Dental Hygienists of Ontario, or
(b) use the title “dental hygienist” or “registered dental hygienist”.

2.04 When in any proceeding an issue arises as to the interpretation of section 2.01 or 2.01A, the Court may have regard to the expert evidence adduced by the parties with respect thereto.

Section 3 - College Structure

3.01 The College of Dental Hygienists of Ontario is a College as set out in the Health Professions Procedural Code.

3.02 The Council shall be composed of

(a) not fewer than 7 and not more than 10 persons who are members elected in the number and manner determined by the regulations;
(b) not fewer than 4 and not more than 6 persons who are not members of the Council of a health profession as designated by the Health Professions Procedural Code or registered under this Act or any other Act governing a health profession and are appointed by the Lieutenant Governor in Council; and
(c) not fewer than 1 and not more than 2 persons who are members of the College and members of a faculty of dental hygiene of an educational institution in Ontario that conducts a course in dental hygiene and is authorized to grant a diploma or degree in dental hygiene, chosen in the number and manner determined by the regulations.

3.03 Subject to the regulations, every member who,

(a) practises or resides in Ontario; and
(b) is not in default of payment of the annual fee prescribed by the regulations; and
(c) is a holder of a certificate of registration in good standing;

is qualified to vote at an election of members of the Council.

3.04 The Council shall elect annually a President and Vice-President from among its members.

Section 4 - Committee Composition

4.01 The Executive Committee shall be composed of,

(a) the President, who shall be Chairman of the Committee;
(b) the Vice-President;
(c) 2 members of the Council who are members of the College; and
(d) 1 member of the Council who is appointed by the Council by the Lieutenant Governor in Council.

4.02 The Registration Committee shall be composed of,

(a) 2 members of the Council who are members of the College; and
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council.

4.03 The Complaints Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 1 person who is a member of the College chosen in the manner determined by the regulations.

4.04 The Discipline Committee shall be composed of,

(a) 3 members of the Council who are members of the College;
(b) 2 members of the Council who are appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College chosen in the manner determined by the regulations.

4.05 The Fitness to Practise Committee shall be composed of,

(a) 2 members of the Council who are members of the College; and
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council.

4.06 The Continuing Competence Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College chosen in the manner determined by the regulations.

Section 5 - Regulation-Making Powers

5.01 Subject to approval by the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

(a) fixing the number of members to be elected to the Council and establishing electoral districts and regional representation for elections;

(b) respecting and governing the selection, terms of office and conditions of disqualification for members of a committee or committees who are not members of Council;

(c) respecting and governing the qualifications, nomination, election and terms of office of the members to be elected to the Council, and controverted elections;

(d) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;

(e) respecting any matter ancillary to the provisions of this Act with regard to the issuing, suspension and revocation of certificates of registration;

(f) prescribing classes of certificates of registration and governing the requirements and qualifications for the issuing of certificates of registration or any class thereof and prescribing the terms and conditions thereof;

(g) providing for the maintenance and inspection of registers, prescribing information on the register which is open to inspection by the public, and providing for the issuance of certificates of standing by the Registrar;

(h) governing standards of practice for the profession in respect of its scope of practice, and prohibiting acting beyond the scope of practice in the course of acting as a member of the profession;

(i) prescribing the records that shall be kept in respect of the member's practice;

(j) requiring and providing for the inspection and examination of any premises used in connection with the practice of dental hygiene and equipment, books, accounts, reports, and records of members in connection with their practice;

(k) prohibiting the practice of the profession where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;

(k^1) defining the activities that constitute a conflict of interest for Council and committee members in the course of their duties as officials of the governing body;

(l) defining professional misconduct for the purposes of this Act;

(m) defining good standing for the purposes of this Act;

(n) providing for a continuing competence program and requiring members to participate in such a program;

(o) providing for the assessment of the standards of practice, qualifications and continuing education of members;

(p) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;

(q) respecting the reporting and publication of decisions of statutory committees;

(r) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;

(r^1)requiring the making of returns of information by members of the College in respect of names, addresses, telephone numbers, associates, partners, employees, locations of professional practice and professional activities, and prescribing and requiring the use of forms of such returns;

(s) respecting the duties and authority of the Registrar;

(t) requiring the payment of fees by members in respect of maintaining their certificate of registration, and fees for registration, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;

(u) prescribing forms for the purposes of this Act and providing for their use;

(v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable;

(w) providing for the expiration of certificates and governing the requirements and qualifications for the issuing and renewal of certificates;

(x) specifying drugs that may be used in the practice of dental hygiene for such purposes as specified;

(y) prescribing the minimum requirements for professional liability insurance, requiring the delivery to the Registrar of proof of such insurance, and prescribing the form of such proof and the manner and time of the delivery;

(z) providing for the giving of notices of public meetings and hearings, and prescribing for that purpose the persons and agencies that are to be given notice, the manner and form in which notice is to be given, and the information that must be contained therein;

(aa)providing for the manner in which licensed acts may be delegated to its members.

5.02 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting a health profession, the Minister shall distribute the proposals to the Council of each health profession and each Council shall be entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.03 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting dental hygiene, the Registrar shall distribute the proposals to each member, and all members are entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.04 Notwithstanding the requirements in section 5.02 and 5.03, the Minister may modify any notice requirement or time period provided for comment where the Minister determines that the public interest requires him or her to do so.

5.05 Notwithstanding section 5.03, no minor and inadvertent failure to provide notice shall be relied on to invalidate a change in legislation or regulations once passed.

Section 6 - Bylaw-Making Powers

6.01 The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act or the Health Professions Procedural Code and the regulations and without limiting the generality of the foregoing,

(a) prescribing the seal of the College;
(b) providing for the execution of documents by the College;
(c) respecting banking and finance;
(d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
(e) providing procedures for the election of President and Vice-President of the College, the selection of Chairman of each of the committees, the filling of a vacancy in those offices, and prescribing the duties and powers of the President, Vice-President, and Chairmen;
(f) respecting the calling, holding and conducting of meetings of the Council and duties of members of the Council;
(g) respecting the calling, holding and conducting of meetings of the membership of the College;
(h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
(i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
(j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
(k) providing for a code of ethics;
(l) providing for the appointment of inspectors for the purposes of this Act;
(m) prescribing forms and providing for their use;
(n) providing procedures for the making, amending and revoking of the by-laws;
(o) respecting management of the property of the College;
(p) respecting the application of the funds of the College and the reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
(q) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
(r) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;

(s) authorizing the making of grants for any purpose that may tend to advance scientific knowledge or dental hygiene education, or maintain or improve the standards of practice in dental hygiene or to support and encourage public information and interest in the past and present role of dental hygiene in society;

(t) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

6.02 A copy of the by-laws made under section 6.01 and amendments thereto,

(a) shall be forwarded to the Minister;
(b) shall be forwarded to each member;
(c) shall be available for public inspection in the office of the College.

6.03 Any by-law or resolution signed by all members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for the purpose.

Section 7 - Interim Orders

7.01 The Executive Committee, in the circumstances set out in section 7.02, by order may suspend the certificate of registration of a member or may impose such restrictions on the certificate of registration of a member as the Committee designates.

7.02 The Executive Committee may make an order under section 7.01 where the Committee has received a report in writing by the Registrar with respect to the conduct or actions of the member, has considered the explanations and representations in writing, if any, under Section 7.03 of the member and is of the opinion that the conduct or actions of the member expose or are likely to expose to harm or injury persons who are or who become patients of the member.

7.03 No action shall be taken by the Executive Committee under section 7.01 unless the member has been given at least two weeks in which to submit in writing to the Executive Committee any explanations or representations the member may wish to make.

7.04 Where an order is made under section 7.01, the College shall commence proceedings expeditiously before the Discipline Committee in respect of the conduct or actions, or both, of the member and shall prosecute the matter expeditiously.

7.05 The Discipline Committee shall give precedence to and hear and determine proceedings commenced under section 7.04 at as early a date as possible.

7.06 A member whose certificate of registration has been suspended who is of the opinion that the College has not commenced proceedings expeditiously before the Discipline Committee or is not prosecuting the matter expeditiously as required by section 7.04 or that the Discipline Committee is not giving precedence to and hearing and determining the matter at as early a date as possible as required by section 7.05 may make application to the Court for judicial review.

7.07 An application under section 7.06 may be made without leave and the court shall treat the application as a case of urgency where delay is likely to involve a failure of justice and the court may give such directions as the court believes proper for expediting the proceedings mentioned in section 7.06 or may make such order as the court considers proper in the matter.

7.08 An order under section 7.01

(a) shall be in writing;
(b) shall state that it is made under this section; and
(c) shall set out sections 7.04 to 7.07.

7.09 An order under section 7.01 continues in force until the matter is disposed of by the Discipline Committee.

The Dental Technology Act

Section 1 - Definitions

1.01 In this Act

(a) "Advisory Council" means the Health Professions Regulatory Advisory Council as defined by the Health Professions Procedural Code;
(b) "by-laws" means the by-laws made under this Act;
(c) "certificate of registration" means a certificate authorizing the practice of dental technology issued under this Act;
(d) "College" means the College of Dental Technologists of Ontario;
(e) "Council" means the Council of the College of Dental Technologists of Ontario;
(f) "member" means a member of the College of Dental Technologists of Ontario;
(g) "Registrar" means the Registrar of the College of Dental Technologists of Ontario;
(h) "regulations" means the regulations made under this Act.

1.02 Dental technology is a health profession to which this Act and the Health Professions Procedural Code apply and the College of Dental Technologists of Ontario and its committees are bound by both Acts.

Section 2 - Scope of Practice

2.01 The practice of dental technology is the design, construction, repair or alteration of dental prosthetic, restorative or orthodontic devices upon the order of a practitioner legally qualified to make such an order.

2.02 Every registration issued under the Dental Technicians Act, being Chapter 114 of the Revised Statutes of Ontario, 1980 and in effect immediately before the ___ day of ___, 19__ continues in the same manner as if issued under this Act until it expires or is revoked, suspended or cancelled under this Act.

2.03 Subject to the regulations passed pursuant to this Act, no person except a member shall

(a) hold himself or herself out as,

(i) registered by or with the College of Dental Technologists of Ontario, or
(ii) the holder of a certificate of registration issued by the College of Dental Technologists of Ontario, or
(iii)a member of the College of Dental Technologists of Ontario. or

(b) use the title "dental technologist" or "registered dental technologist".

2.03A No person shall use the title "dental technician" or "registered dental technician".

2.03B Notwithstanding section 2.03A, a member may use the title "registered dental technician" or "dental technician" for a period of three years commencing on the date of proclamation of this Act.

2.04 When in any proceeding an issue arises as to the interpretation of section 2.01, the Court may have regard to the expert evidence adduced by the parties with respect thereto.

Section 3 - College Structure

3.01 The Governing Board of Dental Technicians is continued as the College of Dental Technologists of Ontario which is a College as set out in the Health Professions Procedural Code.

3.02 The Council shall be composed of

(a) not fewer than 8 and not more than 12 persons who are members elected in the number and manner determined by the regulations; and
(b) not fewer than 4 and not more than 6 persons who are not members of the Council of a health profession as designated by the Health Professions Procedural Code or registered under this Act or any other Act governing a health profession and are appointed by the Lieutenant Governor in Council.

3.03 Subject to the regulations, every member who,

(a) practises or resides in Ontario; and
(b) is not in default of payment of the annual fee prescribed by the regulations; and
(c) is a holder of a certificate of registration in good standing;

is qualified to vote at an election of members of the Council.

3.04 The Council shall elect annually a President and Vice-President from among its members.

Section 4 - Committee Composition

4.01 The Executive Committee shall be composed of,

(a) the President, who shall be Chairman of the Committee;
(b) the Vice-President;
(c) 2 members of the Council who are members of the College; and
(d) 1 member of the Council who is appointed by the Council by the Lieutenant Governor in Council.

4.02 The Registration Committee shall be composed of,

(a) 2 members of the Council who are members of the College; and
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council.

4.03 The Complaints Committee shall be composed of,

(a) 2 members of the Council who are members of the College; and
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council.

4.04 The Discipline Committee shall be composed of,

(a) 3 members of the Council who are members of the College;
(b) 2 members of the Council who are appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College chosen in the manner determined by the regulations.

4.05 The Fitness to Practise Committee shall be composed of,

(a) 2 members of the Council who are members of the College; and
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council.

4.06 The Continuing Competence Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College chosen in the manner determined by the regulations.

Section 5 - Regulation-Making Powers

5.01 Subject to approval by the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

(a) fixing the number of members to be elected to the Council and establishing electoral districts and regional representation for elections;

(b) respecting and governing the selection, terms of office and conditions of disqualification for members of a committee or committees who are not members of Council;

(c) respecting and governing the qualifications, nomination, election and terms of office of the members to be elected to the Council, and controverted elections;

(d) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;

(e) respecting any matter ancillary to the provisions of this Act with regard to the issuing, suspension and revocation of certificates of registration;

(f) prescribing classes of certificates of registration and governing the requirements and qualifications for the issuing of certificates of registration or any class thereof and prescribing the terms and conditions thereof;

(g) providing for the maintenance and inspection of registers, prescribing information on the register which is open to inspection by the public, and providing for the issuance of certificates of standing by the Registrar;

(h) governing standards of practice for the profession in respect of its scope of practice, and prohibiting acting beyond the scope of practice in the course of acting as a member of the profession;

(i) prescribing the records that shall be kept in respect of the member's practice;

(j) requiring and providing for the inspection and examination of any premises used in connection with the practice of dental technicianry and equipment, books, accounts, reports, and records of members in connection with their practice;

(k) prohibiting the practice of the profession where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;

(k^1) defining the activities that constitute a conflict of interest for Council and committee members in the course of their duties as officials of the governing body;

(l) defining professional misconduct for the purposes of this Act;

(m) defining good standing for the purposes of this Act;

(n) providing for a continuing competence program and requiring members to participate in such a program;

(o) providing for the assessment of the standards of practice, qualifications and continuing education of members;

(p) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;

(q) respecting the reporting and publication of decisions of statutory committees;

(r) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;

(r^1)requiring the making of returns of information by members of the College in respect of names, addresses, telephone numbers, associates, partners, employees, locations of professional practice and professional activities, and prescribing and requiring the use of forms of such returns;

(s) respecting the duties and authority of the Registrar;

(t) requiring the payment of fees by members in respect of maintaining their certificate of registration, and fees for registration, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;

(u) prescribing forms for the purposes of this Act and providing for their use;

(v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable;

(w) providing for the expiration of certificates and governing the requirements and qualifications for the issuing and renewal of certificates;

(x) prescribing the minimum requirements for professional liability insurance or protection, requiring the delivery to the Registrar of proof of such insurance or protection, and prescribing the form of such proof and the manner and time of the delivery;

(y) providing for the giving of notices of public meetings and hearings, and prescribing for that purpose the persons and agencies that are to be given notice, the manner and form in which notice is to be given, and the information that must be contained therein;

(z) providing for the manner in which licensed acts may be delegated to its members.

5.02 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting a health profession, the Minister shall distribute the proposals to the Council of each health profession and each Council shall be entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.03 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting dental technicianry, the Registrar shall distribute the proposals to each member, and all members are entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.04 Notwithstanding the requirements in section 5.02 and 5.03, the Minister may modify any notice requirement or time period provided for comment where the Minister determines that the public interest requires him or her to do so.

5.05 Notwithstanding section 5.03, no minor and inadvertent failure to provide notice shall be relied on to invalidate a change in legislation or regulations once passed.

Section 6 - Bylaw-Making Powers

6.01 The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act or the Health Professions Procedural Code and the regulations and without limiting the generality of the foregoing,

(a) prescribing the seal of the College;
(b) providing for the execution of documents by the College;
(c) respecting banking and finance;
(d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
(e) providing procedures for the election of President and Vice-President of the College, the selection of Chairman of each of the committees, the filling of a vacancy in those offices, and prescribing the duties and powers of the President, Vice-President, and Chairmen;
(f) respecting the calling, holding and conducting of meetings of the Council and duties of members of the Council;
(g) respecting the calling, holding and conducting of meetings of the membership of the College;
(h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
(i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
(j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
(k) providing for a code of ethics;
(l) providing for the appointment of inspectors for the purposes of this Act;
(m) prescribing forms and providing for their use;
(n) providing procedures for the making, amending and revoking of the by-laws;
(o) respecting management of the property of the College;
(p) respecting the application of the funds of the College and the reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
(q) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
(r) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;

(s) authorizing the making of grants for any purpose that may tend to advance scientific knowledge or dental technicianry education, or maintain or improve the standards of practice in dental technicianry or to support and encourage public information and interest in the past and present role of dental technicianry in society;

(t) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

6.02 A copy of the by-laws made under section 6.01 and amendments thereto,

(a) shall be forwarded to the Minister;
(b) shall be forwarded to each member;
(c) shall be available for public inspection in the office of the College.

6.03 Any by-law or resolution signed by all members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for the purpose.

The Denturism Act

Section 1 - Definitions

1.01 In this Act

(a) "Advisory Council" means the Health Professions Regulatory Advisory Council as defined by the Health Professions Procedural Code;
(b) "assessment" means the evaluation of a patient's physical or mental state in order to determine whether a treatment within the health professional's scope of practice is appropriate to the patient's condition and if so, in what manner it ought to be applied or administered, and includes communication of evaluation to the patient and his or her representative;
(c) "by-laws" means the by-laws made under this Act;
(d) "certificate of registration" means a certificate authorizing the practice of denturism issued under this Act;
(e) "College" means the College of Denturists of Ontario;
(f) "Council" means the Council of the College of Denturists of Ontario;
(g) "member" means a member of the College of Denturists of Ontario;
(h) "Registrar" means the Registrar of the College of Denturists of Ontario;
(i) "regulations" means the regulations made under this Act.

1.02 Denturism is a health profession to which this Act and the Health Professions Procedural Code apply and the College of Denturists of Ontario and its committees are bound by both Acts.

Section 2 - Scope of Practice

2.01 The practice of denturism is the assessment of partially or fully edentulous arches and the design, construction, repair, alteration, ordering and fitting of removable prostheses.

2.01A In the course of practising as a denturist, a member may perform the following licensed act:

(1) Fitting and dispensing removable dentures.

2.02 Every person who holds a license issued under the Denture Therapists Act, being Chapter 115 of the Revised Statutes of Ontario, 1980 and in effect immediately before the ___ day of ___, 19__ will be deemed to be the holder of a certificate of registration that will continue in the same manner as if issued under this Act until it is revoked, suspended or cancelled under this Act.

2.03 Subject to the regulations passed pursuant to this Act, no person except a member shall

(a) hold himself or herself out as,

(i) registered by or with the College of Denturists of Ontario, or
(ii) the holder of a certificate of registration issued by the College of Denturists of Ontario, or
(iii)a member of the College of Denturists of Ontario, or

(b) use the title “denturist” or “registered denturist”.

2.03A No person shall use the title “denture therapist” or “registered denture therapist”.

2.03B Notwithstanding section 2.03A, a member may use the title “denture therapist” or “registered denture therapist” for a period of three years commencing on the date of proclamation of this Act.

2.04 When in any proceeding an issue arises as to the interpretation of section 2.01 or 2.01A, the Court may have regard to the expert evidence adduced by the parties with respect thereto.

Section 3 - College Structure

3.01 The Governing Board of Denture Therapists is continued as the College of Denturists of Ontario which is a College as set out in the Health Professions Procedural Code.

3.02 The Council shall be composed of

(a) not fewer than 8 and not more than 10 persons who are members chosen in the number determined by the regulations; and
(b) not fewer than 4 and not more than 5 persons who are not members of the Council of a health profession as designated by the Health Professions Procedural Code or registered under this Act or any other Act governing a health profession and are appointed by the Lieutenant Governor in Council.

3.03 Subject to the regulations, every member who,

(a) practises or resides in Ontario; and
(b) is not in default of payment of the annual fee prescribed by the regulations; and
(c) is a holder of a certificate of registration in good standing;

is qualified to vote at an election of members of the Council.

3.04 The Council shall elect biannually a President and Vice-President from among its members.

Section 4 - Committee Composition

4.01 The Executive Committee shall be composed of,

(a) the President, who shall be Chairman of the Committee;
(b) the Vice-President;
(c) 2 members of the Council who are members of the College; and
(d) 1 member of the Council who is appointed by the Council by the Lieutenant Governor in Council.

4.02 The Registration Committee shall be composed of,

(a) 2 members of the Council who are members of the College; and
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council.
(c) 1 person who is a member of the College chosen in the manner determined by the regulations.

4.03 The Complaints Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 1 person who is a member of the College chosen in the manner determined by the regulations.

4.04 The Discipline Committee shall be composed of,

(a) 3 members of the Council who are members of the College;
(b) 2 members of the Council who are appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College chosen in the manner determined by the regulations.

4.05 The Fitness to Practise Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 1 person who is a member of the College chosen in the manner determined by the regulations.

4.06 The Continuing Competence Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College chosen in the manner determined by the regulations.

Section 5 - Regulation-Making Powers

5.01 Subject to approval by the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

(a) fixing the number of members to be appointed to the Council;
(b) respecting and governing the selection, terms of office and conditions of disqualification for members of a committee or committees who are not members of Council;
(c) respecting and governing the qualifications and terms of office of the members to be appointed to the Council;
(d) prescribing the conditions disqualifying appointed members from sitting on Council and governing the filling of vacancies on the Council;
(e) respecting any matter ancillary to the provisions of this Act with regard to the issuing, suspension and revocation of certificates of registration;
(f) prescribing classes of certificates of registration and governing the requirements and qualifications for the issuing of certificates of registration or any class thereof and prescribing the terms and conditions thereof;
(g) providing for the maintenance and inspection of registers, prescribing information on the register which is open to inspection by the public, and providing for the issuance of certificates of standing by the Registrar;
(h) governing standards of practice for the profession in respect of its scope of practice, and prohibiting acting beyond the scope of practice in the course of acting as a member of the profession;
(i) prescribing the records that shall be kept in respect of the member's practice;
(j) requiring and providing for the inspection and examination of any premises used in connection with the practice of denture therapy and equipment, books, accounts, reports, and records of members in connection with their practice;
(k) prohibiting the practice of the profession where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
(k^1) defining the activities that constitute a conflict of interest for Council and committee members in the course of their duties as officials of the governing body;
(l) defining professional misconduct for the purposes of this Act;
(m) defining good standing for the purposes of this Act;
(n) providing for a continuing competence program and requiring members to participate in such a program;
(o) providing for the assessment of the standards of practice, qualifications and continuing education of members;
(p) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;
(q) respecting the reporting and publication of decisions of statutory committees;
(r) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;

(r^1)requiring the making of returns of information by members of the College in respect of names, addresses, telephone numbers, associates, partners, employees, locations of professional practice and professional activities, and prescribing and requiring the use of forms of such returns;

(s) respecting the duties and authority of the Registrar;

(t) requiring the payment of fees by members in respect of maintaining their certificate of registration, and fees for registration, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;

(u) prescribing forms for the purposes of this Act and providing for their use;

(v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable;

(w) providing for the expiration of certificates and governing the requirements and qualifications for the issuing and renewal of certificates;

(x) prescribing the minimum requirements for professional liability insurance or protection, requiring the delivery to the Registrar of proof of such insurance or protection, and prescribing the form of such proof and the manner and time of the delivery;

(y) providing for the giving of notices of public meetings and hearings, and prescribing for that purpose the persons and agencies that are to be given notice, the manner and form in which notice is to be given, and the information that must be contained therein;

(z) providing for the manner in which licensed acts may be delegated to its members.

5.02 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting a health profession, the Minister shall distribute the proposals to the Council of each health profession and each Council shall be entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.03 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting denturism, the Registrar shall distribute the proposals to each member, and all members are entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.04 Notwithstanding the requirements in section 5.02 and 5.03, the Minister may modify any notice requirement or time period provided for comment where the Minister determines that the public interest requires him or her to do so.

5.05 Notwithstanding section 5.03, no minor and inadvertent failure to provide notice shall be relied on to invalidate a change in legislation or regulations once passed.

Section 6 - Bylaw-Making Powers

6.01 The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act or the Health Professions Procedural Code and the regulations and without limiting the generality of the foregoing,

(a) prescribing the seal of the College;
(b) providing for the execution of documents by the College;
(c) respecting banking and finance;
(d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
(e) providing procedures for the election of President and Vice-President of the College, the selection of Chairman of each of the committees, the filling of a vacancy in those offices, and prescribing the duties and powers of the President, Vice-President, and Chairmen;
(f) respecting the calling, holding and conducting of meetings of the Council and duties of members of the Council;
(g) respecting the calling, holding and conducting of meetings of the membership of the College;
(h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
(i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
(j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
(k) providing for a code of ethics;
(l) providing for the appointment of inspectors for the purposes of this Act;
(m) prescribing forms and providing for their use;
(n) providing procedures for the making, amending and revoking of the by-laws;
(o) respecting management of the property of the College;
(p) respecting the application of the funds of the College and the reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
(q) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
(r) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;
(s) authorizing the making of grants for any purpose that may tend to advance scientific

knowledge or denture therapy education, or maintain or improve the standards of practice in denture therapy or to support and encourage public information and interest in the past and present role of denture therapy in society;

(t) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

6.02 A copy of the by-laws made under section 6.01 and amendments thereto,

(a) shall be forwarded to the Minister;
(b) shall be forwarded to each member;
(c) shall be available for public inspection in the office of the College.

6.03 Any by-law or resolution signed by all members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for the purpose.

Section 7 - Interim Orders

7.01 The Executive Committee, in the circumstances set out in section 7.02, by order may suspend the certificate of registration of a member or may impose such restrictions on the certificate of registration of a member as the Committee designates.

7.02 The Executive Committee may make an order under section 7.01 where the Committee has received a report in writing by the Registrar with respect to the conduct or actions of the member, has considered the explanations and representations in writing, if any, under Section 7.03 of the member and is of the opinion that the conduct or actions of the member expose or are likely to expose to harm or injury persons who are or who become patients of the member.

7.03 No action shall be taken by the Executive Committee under section 7.01 unless the member has been given at least two weeks in which to submit in writing to the Executive Committee any explanations or representations the member may wish to make.

7.04 Where an order is made under section 7.01, the College shall commence proceedings expeditiously before the Discipline Committee in respect of the conduct or actions, or both, of the member and shall prosecute the matter expeditiously.

7.05 The Discipline Committee shall give precedence to and hear and determine proceedings commenced under section 7.04 at as early a date as possible.

7.06 A member whose certificate of registration has been suspended who is of the opinion that the College has not commenced proceedings expeditiously before the Discipline Committee or is not prosecuting the matter expeditiously as required by section 7.04 or that the Discipline Committee is not giving precedence to and hearing and determining the matter at as early a date as possible as required by section 7.05 may make application to the Court for judicial review.

7.07 An application under section 7.06 may be made without leave and the court shall treat the application as a case of urgency where delay is likely to involve a failure of justice and the court may give such directions as the court believes proper for expediting the proceedings mentioned in section 7.06 or may make such order as the court considers proper in the matter.

7.08 An order under section 7.01

(a) shall be in writing;
(b) shall state that it is made under this section; and
(c) shall set out sections 7.04 to 7.07.

7.09 An order under section 7.01 continues in force until the matter is disposed of by the Discipline Committee.

The Dentistry Act

Section 1 - Definitions

1.01 In this Act

(a) "Advisory Council" means the Health Professions Regulatory Advisory Council as defined by the Health Professions Procedural Code;

(b) "assessment" means the evaluation of a patient's physical or mental state in order to determine whether a treatment within the health professional's scope of practice is appropriate to the patient's condition and if so, in what manner it ought to be applied or administered, and includes communication of evaluation to the patient and his or her representative;

(c) "by-laws" means the by-laws made under this Act;

(d) "certificate of registration" means a certificate authorizing the practice of Dentistry issued under this Act;

(e) "College" means The Royal College of Dental Surgeons of Ontario;

(f) "Council" means the Council of The Royal College of Dental Surgeons of Ontario;

(g) "dental appliance" means any device fabricated for use in or about the mouth for the purpose of replacing some or all of the teeth or tooth structure, or realigning, repositioning or stabilizing teeth, or protecting teeth or hard or soft tissue of the oral-facial complex from abnormal function.

(h) "Deputy Registrar" means the Deputy Registrar of The Royal College of Dental Surgeons of Ontario;

(i) "member" means a member of The Royal College of Dental Surgeons of Ontario;

(j) "Registrar" means the Registrar of The Royal College of Dental Surgeons of Ontario;

(k) "regulations" means the regulations made under this Act.

1.02 Dentistry is a health profession to which this Act and the Health Professions Procedural Code apply and The Royal College of Dental Surgeons of Ontario and its committees are bound by both Acts.

Section 2 - Scope of Practice

2.01 The practice of dentistry is the assessment of any physical condition of the oral-facial complex, and the diagnosis, treatment and prevention of any disease, dysfunction or disorder of the oral-facial complex.

2.01A In the course of practising as a dentist, a member may perform the following licensed acts:

(1) Diagnosis of disease, injury, or dysfunction of the oral-facial complex.
(2) Cutting, severing or altering hard or soft tissues of the oral-facial complex.
(3) Performing procedures on tissue beyond the dermis of the oral-facial complex.
(4) Harvesting bone and tissue for the purposes of oral and maxillofacial surgery.
(5) Setting fractures and correcting dislocations of bone and joints of the oral-facial complex.
(6) Performing periodontal scaling and root planing.
(7) Fitting and dispensing fixed and removable prostheses and dental appliances for the oral-facial complex.
(8) Performing orthodontic and restorative procedures.
(9) Administering substances by injection or inhalation.
(10)Prescribing and dispensing drugs.

2.02 Every person who holds a license issued under Part II of the Health Disciplines Act, being Chapter 196 of the Revised Statutes of Ontario, 1980 and in effect immediately before the __ day of ___, 19__ shall be deemed to be the holder of a certificate of registration that will continue in the same manner as if issued under this Act until it is revoked, suspended or cancelled under this Act.

2.03 Subject to the regulations passed pursuant to this Act, no person except a member shall

(a) hold himself or herself out as,
  (i) registered by or with the Royal College of Dental Surgeons of Ontario, or
  (ii) the holder of a certificate of registration issued by the Royal College of Dental Surgeons of Ontario, or
  (iii) a member of the Royal College of Dental Surgeons of Ontario, or
(b) take or use any name, title or description implying or calculated to lead people to infer that he or she is qualified or recognized by law or otherwise as a dentist, dental surgeon, oral surgeon, orthodontic, pedodontist, periodontist, oral pathologist, endodontist, or any other designated specialties in the practice of dentistry; or
(c) assume, use or employ the description or the title "dentist", "dental surgeon", or "doctor" or any affix or prefix indicative of such titles or qualifications as an occupational designation relating to the provision of human health care unless authorized to do so pursuant to the Medicine Act, the Optometry Act, or the Psychology Act.

2.04 When in any proceeding an issue arises as to the interpretation of section 2.01 or 2.01A, the Court may have regard to the expert evidence adduced by the parties with respect thereto.

Section 3 - College Structure

3.01 The Royal College of Dental Surgeons of Ontario is continued as a College as set out in the Health Professions Procedural Code.

3.02 The Council shall be composed of

(a) not fewer than 10 and not more than 14 persons who are members elected in the number and manner determined by the regulations;
(b) not fewer than 6 and not more than 8 persons who are not members of the Council of a health profession as designated by the Health Professions Procedural Code or registered under this Act or any other Act governing a health profession and are appointed by the Lieutenant Governor in Council; and
(c) one person who is appointed by the faculty of dentistry of each university in Ontario that conducts a course in dentistry who are members of the College and is authorized to grant degrees in dentistry, such person to be appointed from among the members of the faculty.

3.03 Subject to the regulations, every member who,

(a) practises or resides in Ontario; and
(b) is not in default of payment of the annual fee prescribed by the regulations; and
(c) is a holder of a certificate of registration in good standing;

is qualified to vote at an election of members of the Council.

3.04 The Council shall elect biannually a President and Vice-President from among its members.

3.05 The Council may appoint and terminate at its discretion the appointment of a Deputy Registrar who shall have the powers of the Registrar for the purposes of this Act and the Health Professions Procedural Code.

Section 4 - Committee Composition

4.01 The Executive Committee shall be composed of,

(a) the President, who shall be Chairman of the Committee;
(b) the Vice-President;
(c) 2 members of the Council who are members of the College; and
(d) 1 member of the Council who is appointed by the Council by the Lieutenant Governor in Council.

4.02 The Registration Committee shall be composed of,

(a) 2 members of the Council who are members of the College; and
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council.

4.03 The Complaints Committee shall be composed of,

(a) 4 members of the Council who are members of the College; and
(b) 2 members of the Council who is appointed to the Council by the Lieutenant Governor in Council.

4.04 The Discipline Committee shall be composed of,

(a) 7 members of the Council who are members of the College;
(b) 3 members of the Council who are appointed to the Council by the Lieutenant Governor in Council; and
(c) 5 persons who are members of the College chosen in the manner determined by the regulations.

4.05 The Fitness to Practise Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 1 person who is a member of the College chosen in the manner determined by the regulations.

4.06 The Continuing Competence Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College chosen in the manner determined by the regulations.

4.07 The Council may give the Dental Review Committee under the Health Insurance Act such other duties as the Council considers appropriate and are not inconsistent with its duties under that Act.

Section 5 - Regulation-Making Powers

5.01 Subject to approval by the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

(a) fixing the number of members to be elected to the Council and establishing electoral districts and regional representation for elections;

(b) respecting and governing the selection, terms of office and conditions of disqualification for members of a committee or committees who are not members of Council;

(c) respecting and governing the qualifications, nomination, election and terms of office of the members to be elected to the Council, and controverted elections;

(d) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;

(e) respecting any matter ancillary to the provisions of this Act with regard to the issuing, suspension and revocation of certificates of registration;

(f) prescribing classes of certificates of registration and governing the requirements and qualifications for the issuing of certificates of registration or any class thereof and prescribing the terms and conditions thereof;

(g) providing for the maintenance and inspection of registers, prescribing information on the register which is open to inspection by the public, and providing for the issuance of certificates of standing by the Registrar;

(h) governing standards of practice for the profession in respect of its scope of practice, and prohibiting acting beyond the scope of practice in the course of acting as a member of the profession;

(i) prescribing the records that shall be kept in respect of the member's practice;

(j) requiring and providing for the inspection and examination of any premises used in connection with the practice of dentistry and equipment, books, accounts, reports, and records of members in connection with their practice;

(k) prohibiting the practice of the profession where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;

(k^1) defining the activities that constitute a conflict of interest for Council and committee members in the course of their duties as officials of the governing body;

(l) defining professional misconduct for the purposes of this Act;

(m) defining good standing for the purposes of this Act;

(n) providing for a continuing competence program and requiring members to participate in such a program;

(o) providing for the assessment of the standards of practice, qualifications and continuing education of members;

(p) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;

(q) respecting the reporting and publication of decisions of statutory committees;

(r) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;

(r^1) requiring the making of returns of information by members of the College in respect of names, addresses, telephone numbers, associates, partners, employees, locations of professional practice and professional activities, and prescribing and requiring the use of forms of such returns;

(s) respecting the duties and authority of the Registrar and Deputy Registrar;

(t) requiring the payment of fees by members in respect of maintaining their certificate of registration, and fees for registration, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;

(u) prescribing forms for the purposes of this Act and providing for their use;

(v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable;

(w) defining classes of specialists in the various branches of dentistry and governing the requirements and qualifications for the issuance of certificates relating to specialist status and providing the terms and conditions thereof, and providing for the cancellation, expiry, suspension or revocation of any such certificate and for the regulation and prohibition of the use of terms, titles or designations by members indicating specialization in any branch of dentistry;

(x) regulating the compounding, dispensing and sale of drugs by members and the containers and labelling therefor, prescribing the records that shall be kept and requiring reports to the Minister respecting such compounding, dispensing and sale;

(y) providing for the expiration of certificates and governing the requirements and qualifications for the issuing and renewal of certificates;

(z) prescribing the minimum requirements for professional liability insurance or protection, requiring the delivery to the Registrar of proof of such insurance or protection, and prescribing the form of such proof and the manner and time of the delivery;

(aa) providing for the giving of notices of public meetings and hearings, and prescribing for that purpose the persons and agencies that are to be given notice, the manner and form in which notice is to be given, and the information that must be contained therein;

(bb) providing for the manner in which licensed acts may be delegated by its members.

5.02 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting a health profession, the Minister shall distribute the proposals to the Council of each health profession and each Council shall be entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.03 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting dentistry, the Registrar shall distribute the proposals to each member, and all members are entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.04 Notwithstanding the requirements in section 5.02 and 5.03, the Minister may modify any notice requirement or time period provided for comment where the Minister determines that the public interest requires him or her to do so.

5.05 Notwithstanding section 5.03, no minor and inadvertent failure to provide notice shall be relied on to invalidate a change in legislation or regulations once passed.

Section 6 - Bylaw-Making Powers

6.01 The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act or the Health Professions Procedural Code and the regulations and without limiting the generality of the foregoing,

(a) prescribing the seal of the College;
(b) providing for the execution of documents by the College;
(c) respecting banking and finance;
(d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
(e) providing procedures for the election of President and Vice-President of the College, the selection of Chairman of each of the committees, the filling of a vacancy in those offices, and prescribing the duties and powers of the President, Vice-President, and Chairmen;
(f) respecting the calling, holding and conducting of meetings of the Council and duties of members of the Council;
(g) respecting the calling, holding and conducting of meetings of the membership of the College;
(h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
(i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
(j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
(k) providing for a code of ethics;
(l) providing for the appointment of inspectors for the purposes of this Act;
(m) prescribing forms and providing for their use;
(n) providing procedures for the making, amending and revoking of the by-laws;
(o) respecting management of the property of the College;
(p) respecting the application of the funds of the College and the reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
(q) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
(r) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;

(s) authorizing the making of grants for any purpose that may tend to advance scientific knowledge or dentistry education, or maintain or improve the standards of practice in dentistry or to support and encourage public information and interest in the past and present role of dentistry in society;

(t) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

6.02 A copy of the by-laws made under section 6.01 and amendments thereto,

(a) shall be forwarded to the Minister;
(b) shall be forwarded to each member;
(c) shall be available for public inspection in the office of the College.

6.03 Any by-law or resolution signed by all members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for the purpose.

Section 7 —Interim Orders

7.01 The Executive Committee, in the circumstances set out in section 7.02, by order may suspend the certificate of registration of a member or may impose such restrictions on the certificate of registration of a member as the Committee designates.

7.02 The Executive Committee may make an order under section 7.01 where the Committee has received a report in writing by the Registrar with respect to the conduct or actions of the member, has considered the explanations and representations in writing, if any, under section 7.03 of the member and is of the opinion that the conduct or actions of the member expose or are likely to expose to harm or injury persons who are or who become patients of the member.

7.03 No action shall be taken by the Executive Committee under section 7.01 unless the member has been given at least two weeks in which to submit in writing to the Executive Committee any explanations or representations the member may wish to make.

7.04 Where an order is made under section 7.01, the College shall commence proceedings expeditiously before the Discipline Committee in respect of the conduct or actions, or both, of the member and shall prosecute the matter expeditiously.

7.05 The Discipline Committee shall give precedence to and hear and determine proceedings commenced under section 7.04 at as early a date as possible.

7.06 A member whose certificate of registration has been suspended who is of the opinion that the College has not commenced proceedings expeditiously before the Discipline Committee or is not prosecuting the matter expeditiously as required by section 7.04 or that the Discipline Committee is not giving precedence to and hearing and determining the matter at as early a date as possible as required by section 7.05 may make application to the Court for judicial review.

7.07 An application under section 7.06 may be made without leave and the court shall treat the application as a case of urgency where delay is likely to involve a failure of justice and the court may give such directions as the court believes proper for expediting the proceedings mentioned in section 7.06 or may make such order as the court considers proper in the matter.

7.08 An order under section 7.01

(a) shall be in writing;
(b) shall state that it is made under this section; and
(c) shall set out sections 7.04 to 7.07.

7.09 An order under section 7.01 continues in force until the matter is disposed of by the Discipline Committee.

Section 8

8.01 Where the Discipline Committee finds a member has committed an act of professional misconduct or incompetence, in addition to the penalties set out in section 14.19 or 14.20 of the Health Professions Procedural Code, it may by order revoke, suspend or restrict the recognition of the member's specialist status.

8.02 Where the Discipline Committee, pursuant to section 8.01 of this Act, revokes, suspends or restricts the recognition of the specialist status of a member on the grounds of incompetence, the order takes effect immediately notwithstanding that an appeal is taken from the decision.

8.03 Where the Discipline Committee revokes, suspends or restricts the recognition of specialist status of a member on grounds other than the grounds set out in section 8.02, the order shall not take effect until the time for an appeal from the order has expired without an appeal being taken, or if taken, the appeal has been disposed of or abandoned.

The Dietetics Act

Section 1 - Definitions

1.01 In this Act

(a) "Advisory Council" means the Health Professions Regulatory Advisory Council as defined by the Health Professions Procedural Code;
(b) "assessment" means the evaluation of a patient's physical or mental state in order to determine whether a treatment within the health professional's scope of practice is appropriate to the patient's condition and if so, in what manner it ought to be applied or administered, and includes communication of evaluation to the patient and his or her representative;
(c) "by-laws" means the by-laws made under this Act;
(d) "certificate of registration" means a certificate authorizing the practice of dietetics issued under this Act;
(e) "College" means the College of Dietitians of Ontario;
(f) "Council" means the Council of the College of Dietitians of Ontario;
(g) "member" means a member of the College of Dietitians of Ontario;
(h) "Registrar" means the Registrar of the College of Dietitians of Ontario;
(i) "regulations" means the regulations made under this Act.

1.02 Dietetics is a health profession to which this Act and the Health Professions Procedural Code apply and the College of Dietitians of Ontario and its committees are bound by both Acts.

Section 2 - Scope of Practice

2.01 The practice of dietetics is the assessment of nutritional conditions and the treatment and prevention of nutrition related disorders by nutritional means.

2.02 Subject to the regulations passed pursuant to this Act, no person except a member shall

(a) hold himself or herself out as,
  (i) registered by or with the College of Dietitians of Ontario, or
  (ii) the holder of a certificate of registration issued by the College of Dietitians of Ontario, or
  (iii) a member of the College of Dietitians of Ontario, or
(b) use the title "dietitian" or "registered dietitian".

2.03 When in any proceeding an issue arises as to the interpretation of section 2.01, the Court may have regard to the expert evidence adduced by the parties with respect thereto.

Section 3 - College Structure

3.01 The College of Dietitians of Ontario is a College as set out in the Health Professions Procedural Code.

3.02 The Council shall be composed of

(a) not fewer than 8 and not more than 12 persons who are members elected in the number and manner determined by the regulations; and
(b) not fewer than 4 and not more than 6 persons who are not members of the Council of a health profession as designated by the Health Professions Procedural Code or registered under this Act or any other Act governing a health profession and are appointed by the Lieutenant Governor in Council.

3.03 Subject to the regulations, every member who,

(a) practises or resides in Ontario; and
(b) is not in default of payment of the annual fee prescribed by the regulations; and
(c) is a holder of a certificate of registration in good standing;

is qualified to vote at an election of members of the Council.

3.04 The Council shall elect annually a President and Vice-President from among its members.

Section 4 - Committee Composition

4.01 The Executive Committee shall be composed of,

(a) the President, who shall be Chairman of the Committee;
(b) the Vice-President;
(c) 2 members of the Council who are members of the College; and
(d) 1 member of the Council who is appointed by the Council by the Lieutenant Governor in Council.

4.02 The Registration Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 1 person who is a member of the College chosen in the manner determined by the regulations.

4.03 The Complaints Committee shall be composed of,

(a) 2 members of the Council who are members of the College; and
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council.
(c) 1 person who is a member of the College chosen in the manner determined by the regulations.

4.04 The Discipline Committee shall be composed of,

(a) 3 members of the Council who are members of the College;
(b) 2 members of the Council who are appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College chosen in the manner determined by the regulations.

4.05 The Fitness to Practise Committee shall be composed of,

(a) 2 members of the Council who are members of the College; and
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council.

4.06 The Continuing Competence Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College chosen in the manner determined by the regulations.

Section 5 - Regulation-Making Powers

5.01 Subject to approval by the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

(a) fixing the number of members to be elected to the Council and establishing electoral districts and regional representation for elections;

(b) respecting and governing the selection, terms of office and conditions of disqualification for members of a committee or committees who are not members of Council;

(c) respecting and governing the qualifications, nomination, election and terms of office of the members to be elected to the Council, and controverted elections;

(d) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;

(e) respecting any matter ancillary to the provisions of this Act with regard to the issuing, suspension and revocation of certificates of registration;

(f) prescribing classes of certificates of registration and governing the requirements and qualifications for the issuing of certificates of registration or any class thereof and prescribing the terms and conditions thereof;

(g) providing for the maintenance and inspection of registers, prescribing information on the register which is open to inspection by the public, and providing for the issuance of certificates of standing by the Registrar;

(h) governing standards of practice for the profession in respect of its scope of practice, and prohibiting acting beyond the scope of practice in the course of acting as a member of the profession;

(i) prescribing the records that shall be kept in respect of the member's practice;

(j) requiring and providing for the inspection and examination of any premises used in connection with the practice of dietetics and equipment, books, accounts, reports, and records of members in connection with their practice;

(k) prohibiting the practice of the profession where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;

(k^1) defining the activities that constitute a conflict of interest for Council and committee members in the course of their duties as officials of the governing body;

(l) defining professional misconduct for the purposes of this Act;

(m) defining good standing for the purposes of this Act;

(n) providing for a continuing competence program and requiring members to participate in such a program;

(o) providing for the assessment of the standards of practice, qualifications and continuing education of members;

(p) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;

(q) respecting the reporting and publication of decisions of statutory committees;

(r) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;

(r^1)requiring the making of returns of information by members of the College in respect of names, addresses, telephone numbers, associates, partners, employees, locations of professional practice and professional activities, and prescribing and requiring the use of forms of such returns;

(s) respecting the duties and authority of the Registrar;

(t) requiring the payment of fees by members in respect of maintaining their certificate of registration, and fees for registration, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;

(u) prescribing forms for the purposes of this Act and providing for their use;

(v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable;

(w) providing for the expiration of certificates and governing the requirements and qualifications for the issuing and renewal of certificates;

(x) prescribing the minimum requirements for professional liability insurance or protection, requiring the delivery to the Registrar of proof of such insurance or protection, and prescribing the form of such proof and the manner and time of the delivery;

(y) providing for the giving of notices of public meetings and hearings, and prescribing for that purpose the persons and agencies that are to be given notice, the manner and form in which notice is to be given, and the information that must be contained therein;

(z) providing for the manner in which licensed acts may be delegated to its members.

5.02 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting a health profession, the Minister shall distribute the proposals to the Council of each health profession and each Council shall be entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.03 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting dietetics, the Registrar shall distribute the proposals to each member, and all members are entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.04 Notwithstanding the requirements in section 5.02 and 5.03, the Minister may modify any notice requirement or time period provided for comment where the Minister determines that the public interest requires him or her to do so.

5.05 Notwithstanding section 5.03, no minor and inadvertent failure to provide notice shall be relied on to invalidate a change in legislation or regulations once passed.

Section 6 - Bylaw-Making Powers

6.01 The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act or the Health Professions Procedural Code and the regulations and without limiting the generality of the foregoing,

(a) prescribing the seal of the College;
(b) providing for the execution of documents by the College;
(c) respecting banking and finance;
(d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
(e) providing procedures for the election of President and Vice-President of the College, the selection of Chairman of each of the committees, the filling of a vacancy in those offices, and prescribing the duties and powers of the President, Vice-President, and Chairmen;
(f) respecting the calling, holding and conducting of meetings of the Council and duties of members of the Council;
(g) respecting the calling, holding and conducting of meetings of the membership of the College;
(h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
(i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
(j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
(k) providing for a code of ethics;
(l) providing for the appointment of inspectors for the purposes of this Act;
(m) prescribing forms and providing for their use;
(n) providing procedures for the making, amending and revoking of the by-laws;
(o) respecting management of the property of the College;
(p) respecting the application of the funds of the College and the reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
(q) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
(r) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;
(s) authorizing the making of grants for any purpose that may tend to advance scientific

knowledge or dietetics education, or maintain or improve the standards of practice in dietetics or to support and encourage public information and interest in the past and present role of dietetics in society;

(t) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

6.02 A copy of the by-laws made under 6.01 and amendments thereto,

(a) shall be forwarded to the Minister;
(b) shall be forwarded to each member;
(c) shall be available for public inspection in the office of the College.

6.03 Any by-law or resolution signed by all members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for the purpose.

The Massage Therapy Act

Section 1 - Definitions

1.01 In this Act

(a) "Advisory Council" means the Health Professions Regulatory Advisory Council as defined by the Health Professions Procedural Code;
(b) "assessment" means the evaluation of a patient's physical or mental state in order to determine whether a treatment within the health professional's scope of practice is appropriate to the patient's condition and if so, in what manner it ought to be applied or administered, and includes communication of evaluation to the patient and his or her representative;
(c) "by-laws" means the by-laws made under this Act;
(d) "certificate of registration" means a certificate authorizing the practice of massage therapy issued under this Act;
(e) "Council" means the Council of the College of Massage Therapists of Ontario;
(f) "College" means the College of Massage Therapists of Ontario;
(g) "member" means a member of the College of Massage Therapists of Ontario;
(h) "Registrar" means the Registrar of the College of Massage Therapists of Ontario;
(i) "regulations" means the regulations made under this Act.

1.02 Massage therapy is a health profession to which this Act and the Health Professions Procedural Code apply and the College of Massage Therapists of Ontario and its committees are bound by both Acts.

Section 2 - Scope of Practice

2.01 The practice of massage therapy is the assessment of the soft tissue and joints of the body and the treatment and prevention of physical dysfunction and pain of the soft tissues and joints by manipulation to develop, maintain, rehabilitate or augment physical function, or relieve pain.

2.02 Every person who was registered as a massage therapist under the Drugless Practitioners Act, being Chapter 127 of the Revised Statutes of Ontario, 1980 immediately before the ___ day of ___, 19__ shall be deemed to be the holder of a certificate of registration under this Act until it expires or is revoked, suspended or cancelled under this Act.

2.03 Subject to the regulations passed pursuant to this Act, no person except a member shall

(a) hold himself or herself out as,
  (i) registered by or with the College of Massage Therapists of Ontario, or
  (ii) the holder of a certificate of registration issued by the College of Massage Therapists of Ontario, or
  (iii) a member of the College of Massage Therapists of Ontario, or
(b) use the title "massage therapist" or "registered massage therapist".

2.04 When in any proceeding an issue arises as to the interpretation of section 2.01, the Court may have regard to the expert evidence adduced by the parties with respect thereto.

Section 3 - College Structure

3.01 The Board of Directors of Masseurs is continued as the College of Massage Therapists of Ontario which is a College as set out in the Health Professions Procedural Code.

3.02 The Council shall be composed of

(a) not fewer than 7 and not more than 8 persons who are members elected in the number and manner determined by the regulations; and
(b) 4 persons who are not members of the Council of a health profession as designated by the Health Professions Procedural Code or registered under this Act or any other Act governing a health profession and are appointed by the Lieutenant Governor in Council.

3.03 Subject to the regulations, every member who,

(a) practises or resides in Ontario; and
(b) is not in default of payment of the annual fee prescribed by the regulations; and
(c) is a holder of a certificate of registration in good standing;

is qualified to vote at an election of members of the Council.

3.04 The Council shall elect annually a President and Vice-President from among its members.

Section 4 - Committee Composition

4.01 The Executive Committee shall be composed of,

(a) the President, who shall be Chairman of the Committee;
(b) the Vice-President;
(c) 2 members of the Council who are members of the College; and
(d) 1 member of the Council who is appointed by the Council by the Lieutenant Governor in Council.

4.02 The Registration Committee shall be composed of,

(a) 2 members of the Council who are members of the College; and
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council.

4.03 The Complaints Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 1 person who is a member of the College chosen in the manner determined by the regulations.

4.04 The Discipline Committee shall be composed of,

(a) 3 members of the Council who are members of the College;
(b) 2 members of the Council who are appointed to the Council by the Lieutenant Governor in Council; and
(c) 3 persons who are members of the College chosen in the manner determined by the regulations.

4.05 The Fitness to Practise Committee shall be composed of,

(a) 2 members of the Council who are members of the College; and
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council.

4.06 The Continuing Competence Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College chosen in the manner determined by the regulations.

Section 5 - Regulation-Making Powers

5.01 Subject to approval by the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

(a) fixing the number of members to be elected to the Council and establishing electoral districts and regional representation for elections;

(b) respecting and governing the selection, terms of office and conditions of disqualification for members of a committee or committees who are not members of Council;

(c) respecting and governing the qualifications, nomination, election and terms of office of the members to be elected to the Council, and controverted elections;

(d) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;

(e) respecting any matter ancillary to the provisions of this Act with regard to the issuing, suspension and revocation of certificates of registration;

(f) prescribing classes of certificates of registration and governing the requirements and qualifications for the issuing of certificates of registration or any class thereof and prescribing the terms and conditions thereof;

(g) providing for the maintenance and inspection of registers, prescribing information on the register which is open to inspection by the public, and providing for the issuance of certificates of standing by the Registrar;

(h) governing standards of practice for the profession in respect of its scope of practice, and prohibiting acting beyond the scope of practice in the course of acting as a member of the profession;

(i) prescribing the records that shall be kept in respect of the member's practice;

(j) requiring and providing for the inspection and examination of any premises used in connection with the practice of massage therapy and equipment, books, accounts, reports, and records of members in connection with their practice;

(k) prohibiting the practice of the profession where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;

(k^1) defining the activities that constitute a conflict of interest for Council and committee members in the course of their duties as officials of the governing body;

(l) defining professional misconduct for the purposes of this Act;

(m) defining good standing for the purposes of this Act;

(n) providing for a continuing competence program and requiring members to participate in such a program;

(o) providing for the assessment of the standards of practice, qualifications and continuing education of members;

(p) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;

(q) respecting the reporting and publication of decisions of statutory committees;

(r) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;

(r^1) requiring the making of returns of information by members of the College in respect of names, addresses, telephone numbers, associates, partners, employees, locations of professional practice and professional activities, and prescribing and requiring the use of forms of such returns;

(s) respecting the duties and authority of the Registrar;

(t) requiring the payment of fees by members in respect of maintaining their certificate of registration, and fees for registration, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;

(u) prescribing forms for the purposes of this Act and providing for their use;

(v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable;

(w) providing for the expiration of certificates and governing the requirements and qualifications for the issuing and renewal of certificates;

(x) prescribing the minimum requirements for professional liability insurance or protection, requiring the delivery to the Registrar of proof of such insurance or protection, and prescribing the form of such proof and the manner and time of the delivery;

(y) providing for the giving of notices of public meetings and hearings, and prescribing for that purpose the persons and agencies that are to be given notice, the manner and form in which notice is to be given, and the information that must be contained therein;

(z) providing for the manner in which licensed acts may be delegated to its members.

5.02 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting a health profession, the Minister shall distribute the proposals to the Council of each health profession and each Council shall be entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.03 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting massage therapy, the Registrar shall distribute the proposals to each member, and all members are entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.04 Notwithstanding the requirements in section 5.02 and 5.03, the Minister may modify any notice requirement or time period provided for comment where the Minister determines that the public interest requires him or her to do so.

5.05 Notwithstanding section 5.03, no minor and inadvertent failure to provide notice shall be relied on to invalidate a change in legislation or regulations once passed.

Section 6 - Bylaw-Making Powers

6.01 The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act or the Health Professions Procedural Code and the regulations and without limiting the generality of the foregoing,

(a) prescribing the seal of the College;
(b) providing for the execution of documents by the College;
(c) respecting banking and finance;
(d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
(e) providing procedures for the election of President and Vice-President of the College, the selection of Chairman of each of the committees, the filling of a vacancy in those offices, and prescribing the duties and powers of the President, Vice-President, and Chairmen;
(f) respecting the calling, holding and conducting of meetings of the Council and duties of members of the Council;
(g) respecting the calling, holding and conducting of meetings of the membership of the College;
(h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
(i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
(j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
(k) providing for a code of ethics;
(l) providing for the appointment of inspectors for the purposes of this Act;
(m) prescribing forms and providing for their use;
(n) providing procedures for the making, amending and revoking of the by-laws;
(o) respecting management of the property of the College;
(p) respecting the application of the funds of the College and the reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
(q) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;

(r) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;

(s) authorizing the making of grants for any purpose that may tend to advance scientific knowledge or massage therapy education, or maintain or improve the standards of practice in massage therapy or to support and encourage public information and interest in the past and present role of massage therapy in society;

(t) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

6.02 A copy of the by-laws made under 6.01 and amendments thereto,

(a) shall be forwarded to the Minister;
(b) shall be forwarded to each member;
(c) shall be available for public inspection in the office of the College.

6.03 Any by-law or resolution signed by all members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for the purpose.

The Medical Laboratory Technology Act

1.01 In this Act

(a) "Advisory Council" means the Health Professions Regulatory Advisory Council as defined by the Health Professions Procedural Code;
(b) "by-laws" means the by-laws made under this Act;
(c) "certificate of registration" means a certificate authorizing the practice of medical laboratory technology issued under this Act;
(d) "College" means the College of Medical Laboratory Technologists of Ontario;
(e) "Council" means the Council of the College of Medical Laboratory Technologists of Ontario;
(f) "member" means a member of the College of Medical Laboratory Technologists of Ontario;
(g) "Registrar" means the Registrar of the College of Medical Laboratory Technologists of Ontario;
(h) "regulations" means the regulations made under this Act.

1.02 Medical laboratory technology is a health profession to which this Act and the Health Professions Procedural Code apply and the College of Medical Laboratory Technologists of Ontario and its committees are bound by both Acts.

Section 2 - Scope of Practice

2.01 The practice of medical laboratory technology is the performance of laboratory investigations, and evaluation of their technical sufficiency, on specimens taken from the human body upon the order of a practitioner legally qualified to make such an order.

2.02 Subject to the regulations passed pursuant to this Act, no person except a member shall

(a) hold himself or herself out as,
  (i) registered by or with the College of Medical Laboratory Technologists of Ontario, or
  (ii) the holder of a certificate of registration issued by the College of Medical Laboratory Technologists of Ontario, or
  (iii) a member of the College of Medical Laboratory Technologists of Ontario, or
(b) use the title "medical laboratory technologist" or "registered medical laboratory technologist".

2.03 When in any proceeding an issue arises as to the interpretation of section 2.01, the Court may have regard to the expert evidence adduced by the parties with respect thereto.

Section 3 - College Structure

3.01 The College of Medical Laboratory Technologists of Ontario is a College set out in the Health Professions Procedural Code.

3.02 The Council shall be composed of

(a) not fewer than 9 and not more than 12 persons who are members elected in the number and manner determined by the regulations;
(b) not fewer than 5 and not more than 7 persons who are not members of the Council of a health profession as designated by the Health Professions Procedural Code or registered under this Act or any other Act governing a health profession and are appointed by the Lieutenant Governor in Council; and
(c) not fewer than 1 and not more than 2 persons who are members of the College and members of the full time teaching faculty of an educational institution in Ontario that conducts a course in medical laboratory technology and is authorized to grant a diploma in medical laboratory technology chosen in the number and manner determined by the regulations.

3.03 Subject to the regulations, every member who,

(a) practises or resides in Ontario; and
(b) is not in default of payment of the annual fee prescribed by the regulations; and
(c) is a holder of a certificate of registration in good standing;

is qualified to vote at an election of members of the Council.

3.04 The Council shall elect annually a President and Vice-President from among its members.

Section 4 - Committee Composition

4.01 The Executive Committee shall be composed of,

(a) the President, who shall be Chairman of the Committee;
(b) the Vice-President;
(c) 2 members of the Council who are members of the College; and
(d) 1 member of the Council who is appointed by the Council by the Lieutenant Governor in Council.

4.02 The Registration Committee shall be composed of,

(a) 2 members of the Council who are members of the College; and
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council.

4.03 The Complaints Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 1 person who is a member of the College chosen in the manner determined by the regulations.

4.04 The Discipline Committee shall be composed of,

(a) 4 members of the Council who are members of the College;
(b) 2 members of the Council who are appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College chosen in the manner determined by the regulations.

4.05 The Fitness to Practise Committee shall be composed of,

(a) 2 members of the Council who are members of the College; and
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council.

4.06 The Continuing Competence Committee shall be composed of,

(a) 3 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College chosen in the manner determined by the regulations.

Section 5 - Regulation-Making Powers

5.01 Subject to approval by the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

(a) fixing the number of members to be elected to the Council and establishing electoral districts and regional representation for elections;
(b) respecting and governing the selection, terms of office and conditions of disqualification for members of a committee or committees who are not members of Council;
(c) respecting and governing the qualifications, nomination, election and terms of office of the members to be elected to the Council, and controverted elections;
(d) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;
(e) respecting any matter ancillary to the provisions of this Act with regard to the issuing, suspension and revocation of certificates of registration;
(f) prescribing classes of certificates of registration and governing the requirements and qualifications for the issuing of certificates of registration or any class thereof and prescribing the terms and conditions thereof;
(g) providing for the maintenance and inspection of registers, prescribing information on the register which is open to inspection by the public, and providing for the issuance of certificates of standing by the Registrar;
(h) governing standards of practice for the profession in respect of its scope of practice, and prohibiting acting beyond the scope of practice in the course of acting as a member of the profession;
(i) prescribing the records that shall be kept in respect of the member's practice;
(j) requiring and providing for the inspection and examination of any premises used in connection with the practice of medical laboratory technology and equipment, books, accounts, reports, and records of members in connection with their practice;
(k) prohibiting the practice of the profession where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
(k^1) defining the activities that constitute a conflict of interest for Council and committee members in the course of their duties as officials of the governing body;
(l) defining professional misconduct for the purposes of this Act;
(m) defining good standing for the purposes of this Act;
(n) providing for a continuing competence program and requiring members to participate in such a program;
(o) providing for the assessment of the standards of practice, qualifications and continuing education of members;
(p) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;
(q) respecting the reporting and publication of decisions of statutory committees;
(r) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;

(r^1)requiring the making of returns of information by members of the College in respect of names, addresses, telephone numbers, associates, partners, employees, locations of professional practice and professional activities, and prescribing and requiring the use of forms of such returns;

(s) respecting the duties and authority of the Registrar;

(t) requiring the payment of fees by members in respect of maintaining their certificate of registration, and fees for registration, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;

(u) prescribing forms for the purposes of this Act and providing for their use;

(v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable;

(w) providing for the expiration of certificates and governing the requirements and qualifications for the issuing and renewal of certificates;

(x) prescribing the minimum requirements for professional liability insurance or protection, requiring the delivery to the Registrar of proof of such insurance or protection, and prescribing the form of such proof and the manner and time of the delivery;

(y) providing for the giving of notices of public meetings and hearings, and prescribing for that purpose the persons and agencies that are to be given notice, the manner and form in which notice is to be given, and the information that must be contained therein;

(z) providing for the manner in which licensed acts may be delegated to its members.

5.02 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting a health profession, the Minister shall distribute the proposals to the Council of each health profession and each Council shall be entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.03 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting medical laboratory technology, the Registrar shall distribute the proposals to each member, and all members are entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.04 Notwithstanding the requirements in section 5.02 and 5.03, the Minister may modify any notice requirement or time period provided for comment where the Minister determines that the public interest requires him or her to do so.

5.05 Notwithstanding section 5.03, no minor and inadvertent failure to provide notice shall be relied on to invalidate a change in legislation or regulations once passed.

Section 6 - Bylaw-Making Powers

6.01 The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act or Health Professions Procedural Code and the regulations and without limiting the generality of the foregoing,

(a) prescribing the seal of the College;
(b) providing for the execution of documents by the College;
(c) respecting banking and finance;
(d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
(e) providing procedures for the election of President and Vice-President of the College, the selection of Chairman of each of the committees, the filling of a vacancy in those offices, and prescribing the duties and powers of the President, Vice-President, and Chairmen;
(f) respecting the calling, holding and conducting of meetings of the Council and duties of members of the Council;
(g) respecting the calling, holding and conducting of meetings of the membership of the College;
(h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
(i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
(j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
(k) providing for a code of ethics;
(l) providing for the appointment of inspectors for the purposes of this Act;
(m) prescribing forms and providing for their use;
(n) providing procedures for the making, amending and revoking of the by-laws;
(o) respecting management of the property of the College;
(p) respecting the application of the funds of the College and the reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
(q) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
(r) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;

(s) authorizing the making of grants for any purpose that may tend to advance scientific knowledge or medical laboratory technology education, or maintain or improve the standards of practice in medical laboratory technology or to support and encourage public information and interest in the past and present role of medical laboratory technology in society;
(t) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

6.02 A copy of the by-laws made under section 6.01 and amendments thereto,

(a) shall be forwarded to the Minister;
(b) shall be forwarded to each member;
(c) shall be available for public inspection in the office of the College.

6.03 Any by-law or resolution signed by all members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for the purpose.

The Medical Radiation Technology Act

Section 1 - Definitions

1.01 In this Act

(a) "Advisory Council" means the Health Professions Regulatory Advisory Council as defined by the Health Professions Procedural Code;
(b) "by-laws" means the by-laws made under this Act;
(c) "certificate of registration" means a certificate authorizing the practice of medical radiation technology issued under this Act;
(d) "College" means the College of Medical Radiation Technology of Ontario;
(e) "Council" means the Council of the College of Medical Radiation Technologists of Ontario;
(f) "member" means a member of the College of Medical Radiation Technology of Ontario;
(g) "Registrar" means the Registrar of the College of Medical Radiation Technology of Ontario;
(h) "regulations" means the regulations made under this Act.

1.02 Medical radiation technology is a health profession to which this Act and the Health Professions Procedural Code apply and the College of Medical Radiations Technologists of Ontario and its committees are bound by both Acts.

Section 2 - Scope of Practice

2.01 The practice of medical radiation technology is the use of ionizing radiation to produce diagnostic images and tests, the evaluation of their technical sufficiency, and the therapeutic application of ionizing radiation, upon the order of a practitioner legally qualified to make such an order.

2.01A In the course of practising as a medical radiation technologist, a member may perform the following licensed act:

(1) Administering substances by injection when an order authorizing the performance of the procedure in relation to a patient has been made by a practitioner legally qualified to make such an order.

2.02 Every registration issued under the Radiological Technicians Act, being Chapter 430 of the Revised Statutes of Ontario, 1980 and in effect immediately before the ___ day of ___, 19__ continues in the same manner as if issued under this Act until it expires or is revoked, suspended or cancelled under this Act.

2.03 Subject to the regulations passed pursuant to this Act, no person except a member shall

(a) hold himself or herself out as,
  (i) registered by or with the College of Medical Radiological Technologists of Ontario, or
  (ii) the holder of a certificate of registration issued by the College of Medical Radiological Technologists of Ontario, or
  (iii) a member of the College of Medical Radiological Technologists of Ontario, or
(b) use the title "medical radiological technologist" or "registered medical radiological technologist".

2.03A No person shall use the title "radiological technician" or "registered radiological technician".

2.03B Notwithstanding section 2.03A, a member may use the title "medical radiation technologist" or "registered medical radiation technologist" for a period of three years commencing on the date of proclamation of this Act.

2.04 When in any proceeding an issue arises as to the interpretation of section 2.01 or 2.01A, the Court may have regard to the expert evidence adduced by the parties with respect thereto.

Section 3 - College Structure

3.01 The Board of Radiological Technicians is continued as the College of Medical Radiological Technologists of Ontario which is a College as set out in the Health Professions Procedural Code.

3.02 The Council shall be composed of

(a) not fewer than 7 and not more than 10 persons who are members elected in the number and manner determined by the regulations;
(b) not fewer than 4 and not more than 6 persons who are not members of the Council of a health profession as designated by the Health Professions Procedural Code or registered under this Act or any other Act governing a health profession and are appointed by the Lieutenant Governor in Council; and
(c) not fewer than 1 and not more than 2 persons who are members of the College and members of a faculty of medical radiation technology of an educational institution in Ontario that conducts a course in medical radiation technology and is authorized to grant a diploma in medical radiation technology, chosen in the number and manner determined by the regulations.

3.03 Subject to the regulations, every member who,

(a) practises or resides in Ontario; and
(b) is not in default of payment of the annual fee prescribed by the regulations; and
(c) is a holder of a certificate of registration in good standing;

is qualified to vote at an election of members of the Council.

3.04 The Council shall elect annually a President and Vice-President from among its members.

Section 4 - Committee Composition

4.01 The Executive Committee shall be composed of,

(a) the President, who shall be Chairman of the Committee;
(b) the Vice-President;
(c) 2 members of the Council who are members of the College; and
(d) 1 member of the Council who is appointed by the Council by the Lieutenant Governor in Council.

4.02 The Registration Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 1 person who is a member of the College chosen in the manner determined by the regulations.

4.03 The Complaints Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 1 person who is a member of the College chosen in the manner determined by the regulations.

4.04 The Discipline Committee shall be composed of,

(a) 3 members of the Council who are members of the College;
(b) 2 members of the Council who are appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College chosen in the manner determined by the regulations.

4.05 The Fitness to Practise Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 1 person who is a member of the College chosen in the manner determined by the regulations.

4.06 The Continuing Competence Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College chosen in the manner determined by the regulations.

Section 5 - Regulation-Making Powers

5.01 Subject to approval by the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

(a) fixing the number of members to be elected to the Council and establishing electoral districts and regional representation for elections;

(b) respecting and governing the selection, terms of office and conditions of disqualification for members of a committee or committees who are not members of Council;

(c) respecting and governing the qualifications, nomination, election and terms of office of the members to be elected to the Council, and controverted elections;

(d) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;

(e) respecting any matter ancillary to the provisions of this Act with regard to the issuing, suspension and revocation of certificates of registration;

(f) prescribing classes of certificates of registration and governing the requirements and qualifications for the issuing of certificates of registration or any class thereof and prescribing the terms and conditions thereof;

(g) providing for the maintenance and inspection of registers, prescribing information on the register which is open to inspection by the public, and providing for the issuance of certificates of standing by the Registrar;

(h) governing standards of practice for the profession in respect of its scope of practice, and prohibiting acting beyond the scope of practice in the course of acting as a member of the profession;

(i) prescribing the records that shall be kept in respect of the member's practice;

(j) requiring and providing for the inspection and examination of any premises used in connection with the practice of medical radiation technology and equipment, books, accounts, reports, and records of members in connection with their practice;

(k) prohibiting the practice of the profession where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;

(k[1])defining the activities that constitute a conflict of interest for Council and committee members in the course of their duties as officials of the governing body;

(l) defining professional misconduct for the purposes of this Act;

(m)defining good standing for the purposes of this Act;

(n) providing for a continuing competence program and requiring members to participate in such a program;

(o) providing for the assessment of the standards of practice, qualifications and continuing education of members;

(p) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;

(q) respecting the reporting and publication of decisions of statutory committees;

(r) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;

(r^1) requiring the making of returns of information by members of the College in respect of names, addresses, telephone numbers, associates, partners, employees, locations of professional practice and professional activities, and prescribing and requiring the use of forms of such returns;

(s) respecting the duties and authority of the Registrar;

(t) requiring the payment of fees by members in respect of maintaining their certificate of registration, and fees for registration, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;

(u) prescribing forms for the purposes of this Act and providing for their use;

(v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable;

(w) providing for the expiration of certificates and governing the requirements and qualifications for the issuing and renewal of certificates;

(x) prescribing the minimum requirements for professional liability insurance or protection, requiring the delivery to the Registrar of proof of such insurance or protection, and prescribing the form of such proof and the manner and time of the delivery;

(y) providing for the giving of notices of public meetings and hearings, and prescribing for that purpose the persons and agencies that are to be given notice, the manner and form in which notice is to be given, and the information that must be contained therein;

(z) providing for the manner in which licensed acts may be delegated to its members.

5.02 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting a health profession, the Minister shall distribute the proposals to the Council of each health profession and each Council shall be entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.03 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting medical radiation technology, the Registrar shall distribute the proposals to each member, and all members are entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.04 Notwithstanding the requirements in section 5.02 and 5.03, the Minister may modify any notice requirement or time period provided for comment where the Minister determines that the public interest requires him or her to do so.

5.05 Notwithstanding section 5.03, no minor and inadvertent failure to provide notice shall be relied on to invalidate a change in legislation or regulations once passed.

Section 6 - Bylaw-Making Powers

6.01 The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act or the Health Professions Procedural Code and the regulations and without limiting the generality of the foregoing,

(a) prescribing the seal of the College;
(b) providing for the execution of documents by the College;
(c) respecting banking and finance;
(d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
(e) providing procedures for the election of President and Vice-President of the College, the selection of Chairman of each of the committees, the filling of a vacancy in those offices, and prescribing the duties and powers of the President, Vice-President, and Chairmen;
(f) respecting the calling, holding and conducting of meetings of the Council and duties of members of the Council;
(g) respecting the calling, holding and conducting of meetings of the membership of the College;
(h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
(i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
(j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
(k) providing for a code of ethics;
(l) providing for the appointment of inspectors for the purposes of this Act;
(m) prescribing forms and providing for their use;
(n) providing procedures for the making, amending and revoking of the by-laws;
(o) respecting management of the property of the College;
(p) respecting the application of the funds of the College and the reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
(q) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
(r) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;

(s) authorizing the making of grants for any purpose that may tend to advance scientific knowledge of medical radiation technology education, or maintain or improve the standards of practice in medical radiation technology or to support and encourage public information and interest in the past and present role of medical radiation technology in society;

(t) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

6.02 A copy of the by-laws made under 6.01 and amendments thereto,

(a) shall be forwarded to the Minister;
(b) shall be forwarded to each member;
(c) shall be available for public inspection in the office of the College.

6.03 Any by-law or resolution signed by all members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for the purpose.

Section 7 - Interim Orders

7.01 The Executive Committee, in the circumstances set out in section 7.02, by order may suspend the certificate of registration of a member or may impose such restrictions on the certificate of registration of a member as the Committee designates.

7.02 The Executive Committee may make an order under section 7.01 where the Committee has received a report in writing by the Registrar with respect to the conduct or actions of the member, has considered the explanations and representations in writing, if any, under section 7.03 of the member and is of the opinion that the conduct or actions of the member expose or are likely to expose to harm or injury persons who are or who become patients of the member.

7.03 No action shall be taken by the Executive Committee under section 7.01 unless the member has been given at least two weeks in which to submit in writing to the Executive Committee any explanations or representations the member may wish to make.

7.04 Where an order is made under section 7.01, the College shall commence proceedings expeditiously before the Discipline Committee in respect of the conduct or actions, or both, of the member and shall prosecute the matter expeditiously.

7.05 The Discipline Committee shall give precedence to and hear and determine proceedings commenced under section 7.04 at as early a date as possible.

7.06 A member whose certificate of registration has been suspended who is of the opinion that the College has not commenced proceedings expeditiously before the Discipline Committee or is not prosecuting the matter expeditiously as required by section 7.04 or that the Discipline Committee is not giving precedence to and hearing and determining the matter at as early a date as possible as required by section 7.05 may make application to the Court for judicial review.

7.07 An application under section 7.06 may be made without leave and the court shall treat the application as a case of urgency where delay is likely to involve a failure of justice and the court may give such directions as the court believes proper for expediting the proceedings mentioned in section 7.06 or may make such an order as the Court considers proper in the matter.

7.08 An order under section 7.01

(a) shall be in writing;
(b) shall state that it is made under this section; and
(c) shall set out sections 7.04 to 7.07.

7.09 An order under section 7.01 continues in force until the matter is disposed of by the Discipline Committee.

The Medicine Act

Section 1 - Definitions

1.01 In this Act

(a) "Advisory Council" means the Health Professions Regulatory Advisory Council as defined by the Health Professions Procedural Code;
(b) "assessment" means the evaluation of a patient's physical or mental state in order to determine whether a treatment within the health professional's scope of practice is appropriate to the patient's condition and if so, in what manner it ought to be applied or administered, and includes communication of evaluation to the patient and his or her representative.
(c) "by-laws" means the by-laws made under this Act;
(d) "certificate of registration" means a certificate authorizing the practice of Medicine issued under this Act;
(e) "Council" means the Council of the College of Physicians and Surgeons of Ontario;
(f) "College" means the College of Physicians and Surgeons of Ontario;
(g) "member" means a member of the College of Physicians and Surgeons of Ontario;
(h) "Registrar" means the Registrar of the College of Physicians and Surgeons of Ontario;
(i) "regulations" means the regulations made under this Act.

1.02 Medicine is a health profession to which this Act and the Health Professions Procedural Code apply and the College of Physicians and Surgeons of Ontario and its committees are bound by both Acts.

Section 2 - Scope of Practice

2.01 The practice of medicine is the assessment of any physical or mental condition and the diagnosis, treatment and prevention of any disease, dysfunction, or disorder.

2.01A In the course of practising as a physician or surgeon, a member may perform the following licensed acts:

(1) Diagnosis;
(2) Performing procedures on tissue beyond the dermis, beyond the surface of the mucous membranes and in or beyond the surface of the cornea of the eye;
(3) Setting and casting of fractures and dislocations of bones and joints;
(4) Moving the joints of the spine beyond an individual's usual physiological range of motion using a high-velocity, low-amplitude thrust;
(5) Administering substances by injection or inhalation;
(6) Performing invasive instrumentation, including manual and digital instrumentation,
  (a) beyond the external auditory canal;
  (b) beyond the nares;
  (c) beyond the larynx;
  (d) beyond the urinary meatus;
  (e) beyond the labia majora;
  (f) beyond the anal verge;
  (g) into artificial stoma;
(7) Ordering the application of non-ionizing radiation and other potentially harmful forms of energy as specified by regulation;
(8) Prescribing, dispensing, selling or compounding drugs, or supervising the part of a pharmacy in which drugs are kept;
(9) Prescribing or dispensing ophthalmic appliances;
(10)Prescribing personal hearing aids;
(11)Fitting and dispensing fixed and removable prostheses and dental appliances for the oral-facial complex;
(12)Managing labour and conducting deliveries; and
(13)Allergy challenge testing provoking significant allergic response.

2.02 Every person who holds a license issued under Part III of the Health Disciplines Act, being Chapter 196 of the Revised Statutes of Ontario, 1980 and in effect immediately before the ___ day of ___, 19__ will be deemed to be the holder of a certificate of registration that will continue in the same manner as if issued under this Act until it expires or is revoked, suspended or cancelled under this Act.

2.03 Subject to the regulations passed pursuant to this Act, no person except a member shall

(a) hold himself or herself out as,
  (i) registered by or with the College of Physicians and Surgeons of Ontario, or
  (ii) the holder of a certificate of registration issued by the College of Physicians and Surgeons of Ontario, or
  (iii)a member of the College of Physicians and Surgeons of Ontario, or
(b) take or use any name, title or description implying or calculated to lead people to infer that he or she is qualified or recognized by law or otherwise as a physician, surgeon, osteopath, licentiate in medicine, licentiate in surgery, M.D., D.O., or any designated specialty in the practice of medicine; or
(c) assume, use or employ the description or the title "physician", "surgeon", or "doctor" or any affix or prefix indicative of such title or qualification as an occupational designation relating to the provision of human health care unless authorized to do so pursuant to the Chiropractic Act, the Dentistry Act, the Optometry Act,or the Psychology Act.

2.04 When in any proceeding an issue arises as to the interpretation of section 2.01 or 2.01A, the Court may have regard to the expert evidence adduced by the parties with respect thereto.

Section 3 - College Structure

3.01 The College of Physicians and Surgeons of Ontario is continued as a College as set out in the Health Professions Procedural Code.

3.02 The Council shall be composed of

(a) 16 persons who are members elected in the number and manner determined by the regulations
(b) 9 persons who are not members of the Council of a health profession as designated by the Health Professions Procedural Code or registered under this Act or any other Act governing a health profession and are appointed by the Lieutenant Governor in Council; and
(c) 3 persons who are members of the College and members of a faculty of medicine of a university in Ontario that conducts a course in medicine and is authorized to grant degrees in medicine, chosen in the manner determined by the regulations.

3.03 Subject to the regulations, every member who,

(a) practises or resides in Ontario; and
(b) is not in default of payment of the annual fee prescribed by the regulations; and
(c) is a holder of a certificate of registration in good standing;

is qualified to vote at an election of members of the Council.

3.04 The Council shall elect annually a President and Vice-President from among its members.

Section 4 - Committee Composition

4.01 The Executive Committee shall be composed of,

(a) the President, who shall be Chairman of the Committee;
(b) the Vice-President;
(c) 2 members of the Council who are members of the College; and
(d) Not fewer than one and not more than 2 members of the Council appointed to the Council by the Lieutenant Governor in Council.

4.02 The Registration Committee shall be composed of,

(a) 5 members of the Council who are members of the College; and
(b) 2 members of the Council who is appointed to the Council by the Lieutenant Governor in Council.

4.03 The Complaints Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 2 members of the Council who are appointed to the Council by the Lieutenant Governor in Council; and
(c) 4 persons who are members of the College chosen in the manner determined by the regulations.

4.04 The Discipline Committee shall be composed of,

(a) 4 members of the Council who are members of the College;
(b) 4 members of the Council who are appointed to the Council by the Lieutenant Governor in Council; and
(c) 4 persons who are members of the College chosen in the manner determined by the regulations.

4.05 The Fitness to Practise Committee shall be composed of,

(a) 3 members of the Council who are members of the College;
(b) 2 members of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 3 persons who are members of the College chosen in the manner determined by the regulations.

4.06 The Continuing Competence Committee shall be composed of,

(a) 5 members of the Council who are members of the College;
(b) 2 members of the Council who are appointed to the Council by the Lieutenant Governor in Council; and
(c) 4 persons who are members of the College chosen in the manner determined by the regulations.

4.07 The Council may give the Medical Review Committee under the Health Insurance Act such other duties as the Council considers appropriate and are not inconsistent with its duties under that Act.

Section 5 - Regulation-Making Powers

5.01 Subject to approval by the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

(a) fixing the number of members to be elected to the Council and establishing electoral districts and regional representation for elections;
(b) respecting and governing the selection, terms of office and conditions of disqualification for members of a committee or committees who are not members of Council;
(c) respecting and governing the qualifications, nomination, election and terms of office of the members to be elected to the Council, and controverted elections;
(d) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;
(e) respecting any matter ancillary to the provisions of this Act with regard to the issuing, suspension and revocation of certificates of registration;
(f) prescribing classes of certificates of registration and governing the requirements and qualifications for the issuing of certificates of registration or any class thereof and prescribing the terms and conditions thereof;
(g) providing for the maintenance and inspection of registers, prescribing information on the register which is open to inspection by the public, and providing for the issuance of certificates of standing by the Registrar;
(h) governing standards of practice for the profession in respect of its scope of practice, and prohibiting acting beyond the scope of practice in the course of acting as a member of the profession;
(i) prescribing the records that shall be kept in respect of the member's practice;
(j) requiring and providing for the inspection and examination of any premises used in connection with the practice of medicine and equipment, books, accounts, reports, and records of members in connection with their practice;
(k) prohibiting the practice of the profession where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
(k^1)defining the activities that constitute a conflict of interest for Council and committee members in the course of their duties as officials of the governing body;
(l) defining professional misconduct for the purposes of this Act;
(m)defining good standing for the purposes of this Act;
(n) providing for a continuing competence program and requiring members to participate in such a program;
(o) providing for the assessment of the standards of practice, qualifications and continuing education of members;
(p) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;
(q) respecting the reporting and publication of decisions of statutory committees;
(r) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the infor-

mation necessary to compile such statistics;

(r^1)requiring the making of returns of information by members of the College in respect of names, addresses, telephone numbers, associates, partners, employees, locations of professional practice and professional activities, and prescribing and requiring the use of forms of such returns;

(s) respecting the duties and authority of the Registrar;

(t) requiring the payment of fees by members in respect of maintaining their certificate of registration, and fees for registration, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;

(u) prescribing forms for the purposes of this Act and providing for their use;

(v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable;

(w) defining classes of specialists in the various branches of medicine, prescribing the qualifications required, prescribing for the issuance of certificates relating to specialist status, providing the suspension or revocation of any such designation, and for the regulation and prohibition of the use of terms, titles or designations by members indicating specialization in any branch of medicine;

(x) regulating the compounding, dispensing and sale of drugs by members and the containers and labelling therefor, prescribing the records that shall be kept and requiring reports to the Minister respecting such compounding, dispensing and sale;

(y) providing for the manner in which licensed acts may be delegated by its members;

(z) prescribing the qualifications for and conditions of registration of interns and governing their in-service training;

(aa)providing for the expiration of certificates and governing the requirements and qualifications for the issuing and renewal of certificates;

(bb)prescribing the minimum requirements for professional liability insurance, requiring the delivery to the Registrar of proof of such insurance, and prescribing the form of such proof and the manner and time of the delivery;

(cc)governing the designation of life members of the College and prescribing their rights and privileges;

(dd)prescribing the minimum number of members who may constitute a clinic and the minimum range of medical services that shall be provided in a clinic;

(ee)providing for the giving of notices of public meetings and hearings, and prescribing for that purpose the persons and agencies that are to be given notice, the manner and form in which notice is to be given, and the information that must be contained therein.

5.02 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting a health profession, the Minister shall distribute the proposals to the Council of each health profession and each Council shall be entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.03 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting medicine, the Registrar shall distribute the proposals to each member, and all members are entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.04 Notwithstanding the requirements in section 5.02 and 5.03, the Minister may modify any notice requirement or time period provided for comment where the Minister determines that the public interest requires him or her to do so.

5.05 Notwithstanding section 5.03, no minor and inadvertent failure to provide notice shall be relied on to invalidate a change in legislation or regulations once passed.

Section 6 - Bylaw-Making Powers

6.01 The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act or the Health Professions Procedural Code and the regulations and without limiting the generality of the foregoing,

(a) prescribing the seal of the College;
(b) providing for the execution of documents by the College;
(c) respecting banking and finance;
(d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
(e) providing procedures for the election of President and Vice-President of the College, the selection of Chairman of each of the committees, the filling of a vacancy in those offices, and prescribing the duties and powers of the President, Vice-President, and Chairmen;
(f) respecting the calling, holding and conducting of meetings of the Council and duties of members of the Council;
(g) respecting the calling, holding and conducting of meetings of the membership of the College;
(h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
(i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
(j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
(k) providing for a code of ethics;
(l) providing for the appointment of inspectors for the purposes of this Act;
(m) prescribing forms and providing for their use;
(n) providing procedures for the making, amending and revoking of the by-laws;
(o) respecting management of the property of the College;
(p) respecting the application of the funds of the College and the reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
(q) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
(r) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;

(s) authorizing the making of grants for any purpose that may tend to advance scientific knowledge or medicine education, or maintain or improve the standards of practice in medicine or to support and encourage public information and interest in the past and present role of medicine in society;

(t) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

6.02 A copy of the by-laws made under section 6.01 and amendments thereto,

(a) shall be forwarded to the Minister;
(b) shall be forwarded to each member;
(c) shall be available for public inspection in the office of the College.

6.03 Any by-law or resolution signed by all members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for the purpose.

Section 7 - Interim Orders

7.01 The Executive Committee, in the circumstances set out in section 7.02, by order may suspend the certificate of registration of a member or may impose such restrictions on the certificate of registration of a member as the Committee designates.

7.02 The Executive Committee may make an order under section 7.01 where the Committee has received a report in writing by the Registrar with respect to the conduct or actions of the member, has considered the explanations and representations in writing, if any, under section 7.03 of the member and is of the opinion that the conduct or actions of the member expose or are likely to expose to harm or injury persons who are or who become patients of the member.

7.03 No action shall be taken by the Executive Committee under section 7.01 unless the member has been given at least two weeks in which to submit in writing to the Executive Committee any explanations or representations the member may wish to make.

7.04 Where an order is made under section 7.01, the College shall commence proceedings expeditiously before the Discipline Committee in respect of the conduct or actions, or both, of the member and shall prosecute the matter expeditiously.

7.05 The Discipline Committee shall give precedence to and hear and determine proceedings commenced under section 7.04 at as early a date as possible.

7.06 A member whose certificate of registration has been suspended who is of the opinion that the College has not commenced proceedings expeditiously before the Discipline Committee or is not prosecuting the matter expeditiously as required by section 7.04 or that the Discipline Committee is not giving precedence to and hearing and determining the matter at as early a date as possible as required by section 7.05 may make application to the Court for judicial review.

7.07 An application under section 7.06 may be made without leave and the court shall treat the application as a case of urgency where delay is likely to involve a failure of justice and the court may give such directions as the court believes proper for expediting the proceedings mentioned in section 7.06 or may make such an order as the Court considers proper in the matter.

7.08 An order under section 7.01

(a) shall be in writing;
(b) shall state that it is made under this section; and
(c) shall set out sections 7.04 to 7.07.

7.09 An order under section 7.01 continues in force until the matter is disposed of by the Discipline Committee.

Section 8

8.01 In addition to the provisions of section 14.17 of the Health Professions Procedural Code, the Discipline Committee shall find a member to have committed an act of professional misconduct if the member's rights or privileges under the Narcotic Control Act (Canada) or the Food and Drugs Act (Canada) or the regulations under either of them have been restricted or withdrawn, unless by the member's own request, upon proof thereof.

8.02 Where the Discipline Committee finds a member has committed an act of professional misconduct or incompetence, in addition to the penalties set out in section 14.19 or 14.20 of the Health Professions Procedural Code, it may by order revoke, suspend or restrict the recognition of the member's specialist status.

8.03 Where the Discipline Committee, pursuant to section 8.02 of this Act, revokes, suspends or restricts the recognition of the specialist status of a member on the grounds of incompetence, the order takes effect immediately notwithstanding that an appeal is taken from the decision.

8.04 Where the Discipline Committee revokes, suspends or restricts the recognition of specialist status of a member on grounds other than the grounds set out in 8.03, the order shall not take effect until the time for an appeal from the order has expired without an appeal being taken, or if taken, the appeal has been disposed of or abandoned.

The Midwifery Act

Section 1 - Definitions

1.01 In this Act

(a) "Advisory Council" means the Health Professions Regulatory Advisory Council as defined by the Health Professions Procedural Code;
(b) "assessment" means the evaluation of a patient's physical or mental state in order to determine whether a treatment within the health professional's scope of practice is appropriate to the patient's condition and if so, in what manner it ought to be applied or administered, and includes communication of evaluation to the patient and his or her representative.
(c) "by-laws" means the by-laws made under this Act;
(d) "certificate of registration" means a certificate authorizing the practice of midwifery issued under this Act;
(e) "College" means the College of Midwifes;
(f) "Council" means the Council of the College of Midwifes;
(g) "member" means a member of the College of Midwifes;
(h) "Registrar" means the Registrar of the College of Midwifes;
(i) "regulations" means the regulations made under this Act.

1.02 Midwifery is a health profession to which this Act and the Health Professions Procedural Code apply and the College of Midwifes of Ontario and its statutory committees are bound by both Acts.

Section 2 - Scope of Practice

2.01 The practice of midwifery is the assessment, monitoring and provision of care during normal pregnancy, labour and the post-partum period and conducting spontaneous normal vaginal deliveries.

2.01A In the course of practising as a midwife, a member may perform the following licensed acts:

(1) Managing labour and conducting spontaneous normal vaginal deliveries.
(2) Performing episiotomies and amniotomies and repairing episiotomies and lacerations, not involving the anus, anal sphincter, rectum, urethra and periurethral area.
(3) Using drugs as are specified by regulation.
(4) Administering by injection or inhalation substances as specified by regulation.
(5) Performing invasive instrumentation, including manual and digital instrumentation beyond the labia majora during pregnancy, labour and the post partum period.

2.02 Subject to the regulations passed pursuant to this Act, no person except a member shall

(a) hold himself or herself out as,
  (i) registered by or with the College of Midwives of Ontario, or
  (ii) the holder of a certificate of registration issued by the College of Midwives of Ontario, or
  (iii) a member of the College of Midwives of Ontario, or
(b) use the title "midwife" or "registered midwife".

2.03 When in any proceeding an issue arises as to the interpretation of section 2.01 or 2.01A, the Court may have regard to the expert evidence adduced by the parties with respect thereto.

Section 3 - College Structure

3.01 The College of Midwives of Ontario is a College as set out in the Health Professions Procedural Code.

3.02 The Council shall be composed of

(a) not fewer than 8 and not more than 10 persons who are members chosen in the number and manner determined by the regulations; and
(b) not fewer than 4 and not more than 5 persons who are not members of the Council of a health profession as designated by the Health Professions Procedural Code or registered under this Act or any other Act governing a health profession and are appointed by the Lieutenant Governor in Council.

3.03 Subject to the regulations, every member who,

(a) practises or resides in Ontario;
(b) is not in default of payment of the annual fee prescribed by the regulations; and
(c) is a holder of a certificate of registration in good standing;

is qualified to vote at an election of members of the Council.

3.04 The Council shall elect annually a President and Vice-President from among its members.

Section 4 - Committee Composition

4.01 The Executive Committee shall be composed of,

(a) the President, who shall be Chairman of the Committee;
(b) the Vice-President;
(c) 2 members of the Council who are members of the College; and
(d) 1 member of the Council who is appointed by the Council by the Lieutenant Governor in Council.

4.02 The Registration Committee shall be composed of,

(a) 2 members of the Council who are members of the College; and
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council.

4.03 The Complaints Committee shall be composed of,

(a) 2 members of the Council who are members of the College; and
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council.

4.04 The Discipline Committee shall be composed of,

(a) 3 members of the Council who are members of the College;
(b) 2 members of the Council who are appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College.

4.05 The Fitness to Practise Committee shall be composed of,

(a) 2 members of the Council who are members of the College; and
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council.

4.06 The Continuing Competence Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College.

Section 5 - Regulation -Making Powers

5.01 Subject to approval by the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

(a) fixing the number of members to be elected to the Council and establishing electoral districts and regional representation for elections;

(b) respecting and governing the selection, terms of office and conditions of disqualification for members of a committee or committees who are not members of Council;

(c) respecting and governing the qualifications, nomination, election and terms of office of the members to be elected to the Council, and controverted elections;

(d) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;

(e) respecting any matter ancillary to the provisions of this Act with regard to the issuing, suspension and revocation of certificates of registration;

(f) prescribing classes of certificates of registration and governing the requirements and qualifications for the issuing of certificates of registration or any class thereof and prescribing the terms and conditions thereof;

(g) providing for the maintenance and inspection of registers, prescribing information on the register which is open to inspection by the public, and providing for the issuance of certificates of standing by the Registrar;

(h) governing standards of practice for the profession in respect of its scope of practice, and prohibiting acting beyond the scope of practice in the course of acting as a member of the profession;

(i) prescribing the records that shall be kept in respect of the member's practice;

(j) requiring and providing for the inspection and examination of any premises used in connection with the practice of medicine and equipment, books, accounts, reports, and records of members in connection with their practice;

(k) prohibiting the practice of the profession where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;

(k^1) defining the activities that constitute a conflict of interest for Council and committee members in the course of their duties as officials of the governing body;

(l) defining professional misconduct for the purposes of this Act;

(m) defining good standing for the purposes of this Act;

(n) providing for a continuing competence program and requiring members to participate in such a program;

(o) providing for the assessment of the standards of practice, qualifications and continuing education of members;

(p) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;

(q) respecting the reporting and publication of decisions of statutory committees;

(r) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;

(r^1) requiring the making of returns of information by members of the College in respect of names, addresses, telephone numbers, associates, partners, employees, locations of professional practice and professional activities, and prescribing and requiring the use of forms of such returns;

(s) respecting the duties and authority of the Registrar;

(t) requiring the payment of fees by members in respect of maintaining their certificate of registration, and fees for registration, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;

(u) prescribing forms for the purposes of this Act and providing for their use;

(v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable;

(w) providing for the manner in which licensed acts may be delegated by and to its members;

(x) providing for the expiration of certificates and governing the requirements and qualifications for the issuing and renewal of certificates;

(y) prescribing the minimum requirements for professional liability insurance, requiring the delivery to the Registrar of proof of such insurance, and prescribing the form of such proof and the manner and time of the delivery;

(z) providing for the giving of notices of public meetings and hearings, and prescribing for that purpose the persons and agencies that are to be given notice, the manner and form in which notice is to be given, and the information that must be contained therein;

(aa) specifying drugs and substances that may be used or administered in the practice of midwifery.

5.02 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting a health profession, the Minister shall distribute the proposals to the Council of each health profession and each Council shall be entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.03 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting midwifery, the Registrar shall distribute the proposals to each member, and all members are entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.04 Notwithstanding the requirements in section 5.02 and 5.03, the Minister may modify any notice requirement or time period provided for comment where the Minister determines that the public interest requires him or her to do so.

5.05 Notwithstanding section 5.03, no minor and inadvertent failure to provide notice shall be relied on to invalidate a change in legislation or regulations once passed.

Section 6 - Bylaw-Making Powers

6.01 The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act or the Health Professions Procedure Code and the regulations and without limiting the generality of the foregoing,

(a) prescribing the seal of the College;
(b) providing for the execution of documents by the College;
(c) respecting banking and finance;
(d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
(e) providing procedures for the election of President and Vice-President of the College, the selection of Chairman of each of the committees, the filling of a vacancy in those offices, and prescribing the duties of the President, Vice-President, and Chairmen;
(f) respecting the calling, holding and conducting of meetings of the Council and duties of members of the Council;
(g) respecting the calling, holding and conducting of meetings of the membership of the College;
(h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
(i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
(j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
(k) providing for a code of ethics;
(l) providing for the appointment of inspectors for the purposes of this Act;
(m) prescribing forms and providing for their use;
(n) providing procedures for the making, amending and revoking of the by-laws;
(o) respecting management of the property of the College;
(p) respecting the application of the funds of the College and the reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
(q) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
(r) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;

(s) authorizing the making of grants for any purpose that may tend to advance scientific knowledge or midwifery education, or maintain or improve the standards of practice in midwifery or to support and encourage public information and interest in the past and present role of midwifery in society;

(t) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

6.02 A copy of the by-laws made under section 6.01 and amendments thereto,

(a) shall be forwarded to the Minister;
(b) shall be forwarded to each member;
(c) shall be available for public inspection in the office of the College.

6.03 Any by-law or resolution signed by all members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for the purpose.

Section 7 - Interim Orders

7.01 The Executive Committee, in the circumstances set out in section 7.02, by order may suspend the certificate of registration of a member or may impose such restrictions on the certificate of registration of a member as the Committee designates.

7.02 The Executive Committee may make an order under section 7.01 where the Committee has received a report in writing by the Registrar with respect to the conduct or actions of the member, has considered the explanations and representations in writing, if any, under section 7.03 of the member and is of the opinion that the conduct or actions of the member expose or are likely to expose to harm or injury persons who are or who become patients of the member.

7.03 No action shall be taken by the Executive Committee under section 7.01 unless the member has been given at least two weeks in which to submit in writing to the Executive Committee any explanations or representations the member may wish to make.

7.04 Where an order is made under section 7.01, the College shall commence proceedings expeditiously before the Discipline Committee in respect of the conduct or actions, or both, of the member and shall prosecute the matter expeditiously.

7.05 The Discipline Committee shall give precedence to and hear and determine proceedings commenced under section 7.04 at as early a date as possible.

7.06 A member whose certificate of registration has been suspended who is of the opinion that the College has not commenced proceedings expeditiously before the Discipline Committee or is not prosecuting the matter expeditiously as required by section 7.04 or that the Discipline Committee is not giving precedence to and hearing and determining the mater at as early a date as possible as required by section 7.05 may make application to the Court for judicial review.

7.07 An application under section 7.06 may be made without leave and the court shall treat the application as a case of urgency where delay is likely to involve a failure of justice and the court may give such directions as the court believes proper for expediting the proceedings mentioned in section 7.06 or may make such order as the court considers proper in the matter.

7.08 **An order under section 7.01**

(a) shall be in writing;
(b) shall state that it is made under this section; and
(c) shall set out sections 7.04 to 7.07.

7.09 **An order under section 7.01 continues in force until the matter is disposed of by the Discipline Committee.**

The Nursing Act

Section 1 - Definitions

1.01 In this Act

(a) "Advisory Council" means the Health Professions Regulatory Advisory Council as defined by the Health Professions Procedural Code;
(b) "assessment" means the evaluation of a patient's physical or mental state in order to determine whether a treatment within the health professional's scope of practice is appropriate to the patient's condition and if so, in what manner it ought to be applied or administered, and includes communication of the evaluation to the patient and his or her representative.
(c) "by-laws" means the by-laws made under this Act;
(d) "certificate of registration" means a certificate authorizing the practice of nursing issued under this Act;
(e) "College" means the College of Nurses of Ontario;
(f) "Council" means the Council of the College of Nurses of Ontario;
(g) "member" means a member of the College of Nurses of Ontario;
(h) "Executive Director" means the Executive Director of the College of Nurses of Ontario, who is a "Registrar", and has the powers of a Registrar under the Health Professions Procedural Code;
(h) "regulations" means the regulations made under this Act.

1.02 Nursing is a health profession to which this Act and the Health Professions Procedural Code apply and the College of Nurses of Ontario and its committees are bound by both Acts.

Section 2 - Scope of Practice

2.01 The practice of nursing is the assessment, the provision of care, and the treatment of health conditions by supportive, preventive, therapeutic, palliative and rehabilitative means in order to attain or maintain optimal function.

2.01A In the course of practising as a nurse or practical nurse, a member may perform the following licensed acts:

(1) Performing procedures specified in regulations beyond the dermis and mucous membranes when an order authorizing the performance of the procedure in relation to a patient has been made by a practitioner legally qualified to make such an order.

(2) Administering substances by injection or inhalation when an order authorizing the performance of the procedure in relation to a patient has been made by a practitioner legally qualified to make such an order.

(3) Performing invasive instrumentation, including manual and digital instrumentation
  (i) beyond the external auditory canal
  (ii) beyond the nares
  (iii)beyond the larynx
  (iv)beyond the urinary meatus
  (v) beyond the labia majora
  (vi)beyond the anal verge
  (vii)into artificial stoma
when an order authorizing the performance of the act or procedure in relation to a patient has been made by a practitioner legally qualified to make such an order.

2.02 Every certificate issued under Part IV of the Health Disciplines Act, being Chapter 196 of the Revised Statutes of Ontario, 1980 and in effect immediately before the ___ day of ___, 19__ continues in the same manner as if issued under this Act until it expires or is revoked, suspended or cancelled under this Act.

2.03 Subject to the regulations passed pursuant to this Act, no person except a member shall

(a) hold himself or herself out as,
  (i) registered by or with the College of Nurses of Ontario, or
  (ii) the holder of a certificate of registration issued by the College of Nurses of Ontario, or
  (iii)a member of the College of Nurses of Ontario, or
(b) use the title "nurse", "registered nurse", "practical nurse", "registered practical nurse", or the designation "R.N.", or "R.P.N.".

2.03A No person shall use the title "nursing assistant", "registered nursing assistant", or the designation "R.N.A.".

2.03B Notwithstanding section 2.03A, a member may use the title "nursing assistant", "registered nursing assistant", or the designation "R.N.A." for a period of three years commencing on the date of proclamation of this Act.

2.03C Notwithstanding section 2.03, a person may use the title "dental nurse" or "graduate nurse".

2.04 When in any proceeding an issue arises as to the interpretation of section 2.01 or 2.01A, the Court may have regard to the expert evidence adduced by the parties with respect thereto.

Section 3 - College Structure

3.01 The College of Nurses of Ontario is continued as a College as set out in the Health Professions Procedural Code.

3.02 The Council shall be composed of

(a) 18 persons who are registered nurses elected in the manner determined by the regulations;
(b) 9 persons who are registered practical nurses elected in the manner determined by the regulations; and
(c) 11 persons who are not members of the Council of a health profession as designated by the Health Professions Procedural Code or registered under this Act or any other Act governing a health profession and are appointed by the Lieutenant Governor in Council.

3.03 Subject to the regulations, every member who,

(a) practises or resides in Ontario; and
(b) is not in default of payment of the annual fee prescribed by the regulations; and
(c) is a holder of a certificate of registration in good standing;

is qualified to vote at an election of members of the Council.

3.04 The Council shall elect annually a President, a Vice-President-R.N., and a Vice-President-R.P.N. from among its members.

Section 4 - Committee Composition

4.01 The Executive Committee shall be composed of,

(a) the President, who shall be Chairman of the Committee;
(b) the Vice-President-RN, and the Vice-President-RPN; and
(c) 1 member of the Council who is a member of the College; and
(d) 1 member of the Council who is appointed by the Council by the Lieutenant Governor in Council.

4.02 The Registration Committee shall be composed of,

(a) 4 members of the Council who are members of the College;
(b) 2 members of the Council who are appointed to the Council by the Lieutenant Governor in Council; and
(c) 3 persons who are members of the College chosen in the manner determined by the regulations.

4.03 The Complaints Committee shall be composed of,

(a) 4 members of the Council who are members of the College;
(b) 2 members of the Council who are appointed to the Council by the Lieutenant Governor in Council; and
(c) 3 persons who are members of the College chosen in the manner determined by the regulations.

4.04 The Discipline Committee shall be composed of,

(a) 9 members of the Council who are members of the College;
(b) 4 members of the Council who are appointed to the Council by the Lieutenant Governor in Council; and
(c) 12 persons who are members of the College chosen in the manner determined by the regulations.

4.05 The Fitness to Practise Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 2 members of the Council who are appointed to the Council by the Lieutenant Governor in Council; and
(c) 8 persons who are members of the College chosen in the manner determined by the regulations.

4.06 The Continuing Competence Committee shall be composed of,

(a) 3 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 8 persons who are members of the College chosen in the manner determined by the regulations.

Section 5 - Regulation-Making Powers

5.01 Subject to approval by the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

(a) establishing electoral districts and regional representation for elections to the Council;
(b) respecting and governing the selection, terms of office and conditions of disqualification for members of a committee or committees who are not members of Council;
(c) respecting and governing the qualifications, nomination, election and terms of office of the members to be elected to the Council, and controverted elections;
(d) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;
(e) respecting any matter ancillary to the provisions of this Act with regard to the issuing, suspension and revocation of certificates of registration;
(f) prescribing classes of certificates of registration and governing the requirements and qualifications for the issuing of certificates of registration or any class thereof and prescribing the terms and conditions thereof;
(g) providing for the maintenance and inspection of registers, prescribing information on the register which is open to inspection by the public, and providing for the issuance of certificates of standing by the Executive Director;
(h) governing standards of practice for the profession in respect of its scope of practice, and prohibiting acting beyond the scope of practice in the course of acting as a member of the profession;
(i) prescribing the records that shall be kept in respect of the member's practice;
(j) requiring and providing for the inspection and examination of any premises used in connection with the practice of nursing and equipment, books, accounts, reports, and records of members in connection with their practice;
(k) prohibiting the practice of the profession where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
(k^1)defining the activities that constitute a conflict of interest for Council and committee members in the course of their duties as officials of the governing body;
(l) defining professional misconduct for the purposes of this Act;
(m)defining good standing for the purposes of this Act;
(n) providing for a continuing competence program and requiring members to participate in such a program;
(o) providing for the assessment of the standards of practice, qualifications and continuing education of members;
(p) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;
(q) respecting the reporting and publication of decisions of statutory committees;
(r) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;

(r¹) requiring the making of returns of information by members of the College in respect of names, addresses, telephone numbers, associates, partners, employees, locations of professional practice and professional activities, and prescribing and requiring the use of forms of such returns;

(s) respecting the duties and authority of the Executive Director;

(t) requiring the payment of fees by members in respect of maintaining their certificate of registration, and fees for registration, examinations and continuing education, including penalties for late payment, and fees for anything the Executive Director is required or authorized to do, and prescribing the amounts thereof;

(u) prescribing forms for the purposes of this Act and providing for their use;

(v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable;

(w) providing for the expiration of certificates and governing the requirements and qualifications for the issuing and renewal of certificates;

(x) prescribing the minimum requirements for professional liability insurance or protection, requiring the delivery to the Executive Director of proof of such insurance or protection, and prescribing the form of such proof and the manner and time of the delivery;

(y) providing for the giving of notices of public meetings and hearings, and prescribing for that purpose the persons and agencies that are to be given notice, the manner and form in which notice is to be given, and the information that must be contained therein;

(z) providing for the manner in which licensed acts may be delegated to its members.

5.02 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting a health profession, the Minister shall distribute the proposals to the Council of each health profession and each Council shall be entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.03 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting nursing, the Registrar shall distribute the proposals to each member, and all members are entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.04 Notwithstanding the requirements in section 5.02 and 5.03, the Minister may modify any notice requirement or time period provided for comment where the Minister determines that the public interest requires him or her to do so.

5.05 Notwithstanding section 5.03, no minor and inadvertent failure to provide notice shall be relied on to invalidate a change in legislation or regulations once passed.

Section 6 - Bylaw-Making Powers

6.01 The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act or the Health Professions Procedural Code and the regulations and without limiting the generality of the foregoing,

(a) prescribing the seal of the College;
(b) providing for the execution of documents by the College;
(c) respecting banking and finance;
(d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
(e) providing procedures for the election of President and Vice-Presidents of the College, the selection of Chairmen of each of the Committees, the filling of a vacancy in those offices, and prescribing the duties and powers of the President, Vice-Presidents, and Chairmen;
(f) respecting the calling, holding and conducting of meetings of the Council and duties of members of the Council;
(g) respecting the calling, holding and conducting of meetings of the membership of the College;
(h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
(i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
(j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
(k) providing for a code of ethics;
(l) providing for the appointment of inspectors for the purposes of this Act;
(m) prescribing forms and providing for their use;
(n) providing procedures for the making, amending and revoking of the by-laws;
(o) respecting management of the property of the College;
(p) respecting the application of the funds of the College and the reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
(q) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
(r) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;
(s) authorizing the making of grants for any purpose that may tend to advance scientific

knowledge or nursing education, or maintain or improve the standards of practice in nursing or to support and encourage public information and interest in the past and present role of nursing in society;

(t) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

6.02 A copy of the by-laws made under section 6.01 and amendments thereto,

(a) shall be forwarded to the Minister;
(b) shall be forwarded to each member;
(c) shall be available for public inspection in the office of the College.

6.03 Any by-law or resolution signed by all members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for the purpose.

Section 7 - Interim Orders

7.01 The Executive Committee, in the circumstances set out in section 7.02, by order may suspend the certificate of registration of a member or may impose such restrictions on the certificate of registration of a member as the Committee designates.

7.02 The Executive Committee may make an order under section 7.01 where the Committee has received a report in writing by the Executive Director with respect to the conduct or actions of the member, has considered the explanations and representations in writing, if any, under Section 7.03 of the member and is of the opinion that the conduct or actions of the member expose or are likely to expose to harm or injury persons who are or who become patients of the member.

7.03 No action shall be taken by the Executive Committee under section 7.01 unless the member has been given at least two weeks in which to submit in writing to the Executive Committee any explanations or representations the member may wish to make.

7.04 Where an order is made under section 7.01, the College shall commence proceedings expeditiously before the Discipline Committee in respect of the conduct or actions, or both, of the member and shall prosecute the matter expeditiously.

7.05 The Discipline Committee shall give precedence to and hear and determine proceedings commenced under section 7.04 at as early a date as possible.

7.06 A member whose certificate of registration has been suspended who is of the opinion that the College has not commenced proceedings expeditiously before the Discipline Committee or is not prosecuting the matter expeditiously as required by section 7.04 or that the Discipline Committee is not giving precedence to and hearing and determining the matter at as early a date as possible as required by section 7.05 may make application to the Court for judicial review.

7.07 An application under section 7.06 may be made without leave and the court shall treat the application as a case of urgency where delay is likely to involve a failure of justice and the court may give such directions as the court believes proper for expediting the proceedings mentioned in section 7.06 or may make such order as the court considers proper in the matter.

7.08 An order under section 7.01

(a) shall be in writing;
(b) shall state that it is made under this section; and
(c) shall set out sections 7.04 to 7.07.

7.09 An order under section 7.01 continues in force until the matter is disposed of by the Discipline Committee.

The Occupational Therapy Act

Section 1 - Definitions

1.01 In this Act

(a) "Advisory Council" means the Health Professions Regulatory Advisory Council as defined by the Health Professions Procedural Code;
(b) "assessment" means the evaluation of a patient's physical or mental state in order to determine whether a treatment within the health professional's scope of practice is appropriate to the patient's condition and if so, in what manner it ought to be applied or administered, and includes communication of the evaluation to the patient and his or her representative.
(c) "by-laws" means the by-laws made under this Act;
(d) "certificate of registration" means a certificate authorizing the practice of occupational therapy issued under this Act;
(e) "Council" means the Council of the College of Occupational Therapists of Ontario;
(f) "College" means the College of Occupational Therapists of Ontario;
(g) "member" means a member of the College of Occupational Therapists of Ontario;
(h) "Registrar" means the Registrar of the College of Occupational Therapists of Ontario;
(h) "regulations" means the regulations made under this Act.

1.02 Occupational therapy is a health profession to which this Act and the Health Professions Procedural Code apply and the College of Occupational Therapists of Ontario and its committees are bound by both Acts.

Section 2 - Scope of Practice

2.01 The practice of occupational therapy is the assessment of function and adaptive behaviour and the treatment and prevention of disorders which affect function or adaptive behaviour to develop, maintain, rehabilitate or augment function in the areas of self-care, productivity and leisure.

2.02 Subject to the regulations passed pursuant to this Act, no person except a member shall

(a) hold himself or herself out as,
  (i) registered by or with the College of Occupational Therapists of Ontario, or
  (ii) the holder of a certificate of registration issued by the College of Occupational Therapists of Ontario, or
  (iii)a member of the College of Occupational Therapists of Ontario, or
(b) use the title "occupational therapist" or "registered occupational therapist".

2.03 When in any proceeding an issue arises as to the interpretation of section 2.01, the Court may have regard to the expert evidence adduced by the parties with respect thereto.

Section 3 - College Structure

3.01 The College of Occupational Therapists of Ontario is a College as set out in the Health Professions Procedural Code.

3.02 The Council shall be composed of

(a) not fewer than 7 and not more than 10 persons who are members elected in the number and manner determined by the regulations; and
(b) not fewer than 4 and not more than 6 persons who are not members of the Council of a health profession as designated by the Health Professions Procedural Code or registered under this Act or any other Act governing a health profession and are appointed by the Lieutenant Governor in Council; and
(c) not fewer than 1 and not more than 2 persons who are members of the College and members of a faculty of occupational therapy of a university of Ontario that conducts a course in occupational therapy and is authorized to grant a degree in occupational therapy, chosen in the number and manner determined by the regulations.

3.03 Subject to the regulations, every member who,

(a) practises or resides in Ontario; and
(b) is not in default of payment of the annual fee prescribed by the regulations; and
(c) is a holder of a certificate of registration in good standing;

is qualified to vote at an election of members of the Council.

3.04 The Council shall elect annually a President and Vice-President from among its members.

Section 4 - Committee Composition

4.01 The Executive Committee shall be composed of,

(a) the President, who shall be Chairman of the Committee;
(b) the Vice-President;
(c) 2 members of the Council who are members of the College; and
(d) 1 member of the Council who is appointed by the Council by the Lieutenant Governor in Council.

4.02 The Registration Committee shall be composed of,

(a) 2 members of the Council who are members of the College; and
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council.

4.03 The Complaints Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 1 persons who are members of the College chosen in the manner determined by the regulations.

4.04 The Discipline Committee shall be composed of,

(a) 3 members of the Council who are members of the College;
(b) 2 members of the Council who are appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College chosen in the manner determined by the regulations.

4.05 The Fitness to Practise Committee shall be composed of,

(a) 2 members of the Council who are members of the College; and
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council.

4.06 The Continuing Competence Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College chosen in the manner determined by the regulations.

Section 5 - Regulation-Making Powers

5.01 Subject to approval by the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

(a) fixing the number of members to be elected to the Council and establishing electoral districts and regional representation for elections;

(b) respecting and governing the selection, terms of office and conditions of disqualification for members of a committee or committees who are not members of Council;

(c) respecting and governing the qualifications, nomination, election and terms of office of the members to be elected to the Council, and controverted elections;

(d) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;

(e) respecting any matter ancillary to the provisions of this Act with regard to the issuing, suspension and revocation of certificates of registration;

(f) prescribing classes of certificates of registration and governing the requirements and qualifications for the issuing of certificates of registration or any class thereof and prescribing the terms and conditions thereof;

(g) providing for the maintenance and inspection of registers, prescribing information on the register which is open to inspection by the public, and providing for the issuance of certificates of standing by the Registrar;

(h) governing standards of practice for the profession in respect of its scope of practice, and prohibiting acting beyond the scope of practice in the course of acting as a member of the profession;

(i) prescribing the records that shall be kept in respect of the member's practice;

(j) requiring and providing for the inspection and examination of any premises used in connection with the practice of occupational therapy and equipment, books, accounts, reports, and records of members in connection with their practice;

(k) prohibiting the practice of the profession where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;

(k^1) defining the activities that constitute a conflict of interest for Council and committee members in the course of their duties as officials of the governing body;

(l) defining professional misconduct for the purposes of this Act;

(m) defining good standing for the purposes of this Act;

(n) providing for a continuing competence program and requiring members to participate in such a program;

(o) providing for the assessment of the standards of practice, qualifications and continuing education of members;

(p) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;

(q) respecting the reporting and publication of decisions of statutory committees;

(r) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;

(r[1]) requiring the making of returns of information by members of the College in respect of names, addresses, telephone numbers, associates, partners, employees, locations of professional practice and professional activities, and prescribing and requiring the use of forms of such returns;

(s) respecting the duties and authority of the Registrar;

(t) requiring the payment of fees by members in respect of maintaining their certificate of registration, and fees for registration, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;

(u) prescribing forms for the purposes of this Act and providing for their use;

(v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable;

(w) providing for the expiration of certificates and governing the requirements and qualifications for the issuing and renewal of certificates;

(x) prescribing the minimum requirements for professional liability insurance or protection, requiring the delivery to the Registrar of proof of such insurance or protection, and prescribing the form of such proof and the manner and time of the delivery;

(y) providing for the giving of notices of public meetings and hearings, and prescribing for that purpose the persons and agencies that are to be given notice, the manner and form in which notice is to be given, and the information that must be contained therein;

(z) providing for the manner in which licensed acts may be delegated to its members.

5.02 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting a health profession, the Minister shall distribute the proposals to the Council of each health profession and each Council shall be entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.03 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting occupational therapy, the Registrar shall distribute the proposals to each member, and all members are entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.04 Notwithstanding the requirements in section 5.02 and 5.03, the Minister may modify any notice requirement or time period provided for comment where the Minister determines that the public interest requires him or her to do so.

5.05 Notwithstanding section 5.03, no minor and inadvertent failure to provide notice shall be relied on to invalidate a change in legislation or regulations once passed.

Section 6 - Bylaw-Making Powers

6.01 The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act or the Health Professions Procedural Code and the regulations and without limiting the generality of the foregoing,

(a) prescribing the seal of the College;
(b) providing for the execution of documents by the College;
(c) respecting banking and finance;
(d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
(e) providing procedures for the election of President and Vice-President of the College, the selection of Chairman of each of the committees, the filling of a vacancy in those offices, and prescribing the duties and powers of the President, Vice-President, and Chairmen;
(f) respecting the calling, holding and conducting of meetings of the Council and duties of members of the Council;
(g) respecting the calling, holding and conducting of meetings of the membership of the College;
(h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
(i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
(j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
(k) providing for a code of ethics;
(l) providing for the appointment of inspectors for the purposes of this Act;
(m) prescribing forms and providing for their use;
(n) providing procedures for the making, amending and revoking of the by-laws;
(o) respecting management of the property of the College;
(p) respecting the application of the funds of the College and the reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
(q) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
(r) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;
(s) authorizing the making of grants for any purpose that may tend to advance scientific

knowledge or occupational therapy education, or maintain or improve the standards of practice in occupational therapy or to support and encourage public information and interest in the past and present role of occupational therapy in society;

(t) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

6.02 A copy of the by-laws made under section 6.01 and amendments thereto,

(a) shall be forwarded to the Minister;
(b) shall be forwarded to each member;
(c) shall be available for public inspection in the office of the College.

6.03 Any by-law or resolution signed by all members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for the purpose.

The Opticianry Act

Section 1 - Definitions

1.01 In this Act

(a) "Advisory Council" means the Health Professions Regulatory Advisory Council as defined by the Health Professions Procedural Code;
(b) "by-laws" means the by-laws made under this Act;
(c) "certificate of registration" means a certificate authorizing the practice of opticianry issued under this Act;
(d) "College" means the College of Opticians of Ontario;
(e) "Council" means the Council of the College of Opticians of Ontario;
(f) "member" means a member of the College of Opticians of Ontario;
(g) "ophthalmic appliance" means lenses, spectacles, eyeglasses, subnormal vision devices, contact lenses or appurtenances thereto for the aid, correction or relief of visual or ocular anomalies of the eye.
(h) "Registrar" means the Registrar of the College of Opticians of Ontario;
(i) "regulations" means the regulations made under this Act.

1.02 Opticianry is a health profession to which this Act and the Health Professions Procedural Code apply and the College of Opticians of Ontario and its committees are bound by both Acts.

Section 2 - Scope of Practice

2.01 The practice of opticianry is the provision, fitting and adjustment of ophthalmic appliances upon the prescription of an optometrist or physician.

2.01A In the course of practising as an optician, a member may perform the following licensed act: Dispensing ophthalmic appliances upon prescription.

2.02 Every registration issued under the Ophthalmic Dispensers Act, being Chapter 364 of the Revised Statutes of Ontario, 1980 and in effect immediately before the ___ day of ___, 19__ continues in the same manner as if issued under this Act until it expires or is revoked, suspended or cancelled under this Act.

2.03 Subject to the regulations passed pursuant to this Act, no person except a member shall

(a) hold himself or herself out as,
  (i) registered by or with the College of Opticians of Ontario, or
  (ii) the holder of a certificate of registration issued by the College of Opticians of Ontario, or
  (iii)a member of the College of Opticians of Ontario, or
(b) use the title "optician" or "registered optician".

2.03A No person shall use the title "ophthalmic dispenser" or "registered ophthalmic dispenser".

2.03B Notwithstanding section 2.03A, a member may use the title "ophthalmic dispenser" or "registered ophthalmic dispenser" for a period of three years commencing on the date of proclamation of this Act.

2.04 When in any proceeding an issue arises as to the interpretation of section 2.01 or 2.01A, the Court may have regard to the expert evidence adduced by the parties with respect thereto.

2.05 Nothing in this Act prevents,

(a) the sale of protective glasses for industrial purposes, colored glasses not embodying any ophthalmic lens, goggles or simple magnifying glasses not sold or devised for the relief or correction of any visual or muscular error or defect of the eye; or
(b) the sale or offering for sale by a retail merchant at his place of business of spectacles or eye glasses,

but the Lieutenant Governor in Council may make regulations governing or restricting the sale or offering for sale referred to in clause (b) and prescribing the terms and conditions thereof and designating the nature and kind of spectacles and eye glasses that may be sold under this sub-section.

Section 3 - College Structure

3.01 The Board of Ophthalmic Dispensers is continued as the College of Opticians of Ontario which is a College as set out in the Health Professions Procedural Code.

3.02 The Council shall be composed of

(a) not fewer than 8 and not more than 12 persons who are members elected in the number and manner determined by the regulations; and
(b) not fewer than 4 and not more than 6 persons who are not members of the Council of a health profession as designated by the Health Professions Procedural Code or registered under this Act or any other Act governing a health profession and are appointed by the Lieutenant Governor in Council.

3.03 Subject to the regulations, every member who,

(a) practises or resides in Ontario; and
(b) is not in default of payment of the annual fee prescribed by the regulations; and
(c) is a holder of a certificate of registration in good standing;

is qualified to vote at an election of members of the Council.

3.04 The Council shall elect annually a President and Vice-President from among its members.

Section 4 - Committee Composition

4.01 The Executive Committee shall be composed of,

(a) the President, who shall be Chairman of the Committee;
(b) the Vice-President;
(c) 2 members of the Council who are members of the College; and
(d) 1 member of the Council who is appointed by the Council by the Lieutenant Governor in Council.

4.02 The Registration Committee shall be composed of,

(a) 2 members of the Council who are members of the College; and
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council.

4.03 The Complaints Committee shall be composed of,

(a) 2 members of the Council who are members of the College; and
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council.

4.04 The Discipline Committee shall be composed of,

(a) 3 members of the Council who are members of the College;
(b) 2 members of the Council who are appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College chosen in the manner determined by the regulations.

4.05 The Fitness to Practise Committee shall be composed of,

(a) 2 members of the Council who are members of the College; and
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council.

4.06 The Continuing Competence Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College chosen in the manner determined by the regulations.

Section 5 - Regulation-Making Powers

5.01 Subject to approval by the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

(a) fixing the number of members to be elected to the Council and establishing electoral districts and regional representation for elections;
(b) respecting and governing the selection, terms of office and conditions of disqualification for members of a committee or committees who are not members of Council;
(c) respecting and governing the qualifications, nomination, election and terms of office of the members to be elected to the Council, and controverted elections;
(d) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;
(e) respecting any matter ancillary to the provisions of this Act with regard to the issuing, suspension and revocation of certificates of registration;
(f) prescribing classes of certificates of registration and governing the requirements and qualifications for the issuing of certificates of registration or any class thereof and prescribing the terms and conditions thereof;
(g) providing for the maintenance and inspection of registers, prescribing information on the register which is open to inspection by the public, and providing for the issuance of certificates of standing by the Registrar;
(h) governing standards of practice for the profession in respect of its scope of practice, and prohibiting acting beyond the scope of practice in the course of acting as a member of the profession;
(i) prescribing the records that shall be kept in respect of the member's practice;
(j) requiring and providing for the inspection and examination of any premises used in connection with the practice of ophthalmic dispensing and equipment, books, accounts, reports, and records of members in connection with their practice;
(k) prohibiting the practice of the profession where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
(k[1]) defining the activities that constitute a conflict of interest for Council and committee members in the course of their duties as officials of the governing body;
(l) defining professional misconduct for the purposes of this Act;
(m) defining good standing for the purposes of this Act;
(n) providing for a continuing competence program and requiring members to participate in such a program;
(o) providing for the assessment of the standards of practice, qualifications and continuing education of members;
(p) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;
(q) respecting the reporting and publication of decisions of statutory committees;
(r) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;

(r^1) requiring the making of returns of information by members of the College in respect of names, addresses, telephone numbers, associates, partners, employees, locations of professional practice and professional activities, and prescribing and requiring the use of forms of such returns;

(s) respecting the duties and authority of the Registrar;

(t) requiring the payment of fees by members in respect of maintaining their certificate of registration, and fees for registration, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;

(u) prescribing forms for the purposes of this Act and providing for their use;

(v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable;

(w) providing for the expiration of certificates and governing the requirements and qualifications for the issuing and renewal of certificates.

(x) prescribing the minimum requirements for professional liability insurance or protection, requiring the delivery to the Registrar of proof of such insurance or protection, and prescribing the form of such proof and the manner and time of the delivery;

(y) providing for the giving of notices of public meetings and hearings, and prescribing for that purpose the persons and agencies that are to be given notice, the manner and form in which notice is to be given, and the information that must be contained therein;

(z) providing for the manner in which licensed acts may be delegated to its members.

5.02 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting a health profession, the Minister shall distribute the proposals to the Council of each health profession and each Council shall be entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.03 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting opticianry, the Registrar shall distribute the proposals to each member, and all members are entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.04 Notwithstanding the requirements in section 5.02 and 5.03, the Minister may modify any notice requirement or time period provided for comment where the Minister determines that the public interest requires him or her to do so.

5.05 Notwithstanding section 5.03, no minor and inadvertent failure to provide notice shall be relied on to invalidate a change in legislation or regulations once passed.

Section 6 - Bylaw-Making Powers

6.01 The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act or the Health Professions Procedural Code and the regulations and without limiting the generality of the foregoing,

(a) prescribing the seal of the College;
(b) providing for the execution of documents by the College;
(c) respecting banking and finance;
(d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
(e) providing procedures for the election of President and Vice-President of the College, the selection of Chairman of each of the committees, the filling of a vacancy in those offices, and prescribing the duties and powers of the President, Vice-President, and Chairmen;
(f) respecting the calling, holding and conducting of meetings of the Council and duties of members of the Council;
(g) respecting the calling, holding and conducting of meetings of the membership of the College;
(h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
(i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
(j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
(k) providing for a code of ethics;
(l) providing for the appointment of inspectors for the purposes of this Act;
(m) prescribing forms and providing for their use;
(n) providing procedures for the making, amending and revoking of the by-laws;
(o) respecting management of the property of the College;
(p) respecting the application of the funds of the College and the reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
(q) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
(r) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;

(s) authorizing the making of grants for any purpose that may tend to advance scientific knowledge or ophthalmic dispensing education, or maintain or improve the standards of practice in ophthalmic dispensing or to support and encourage public information and interest in the past and present role of ophthalmic dispensing in society;

(t) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

6.02 A copy of the by-laws made under section 6.01 and amendments thereto,

(a) shall be forwarded to the Minister;
(b) shall be forwarded to each member;
(c) shall be available for public inspection in the office of the College.

6.03 Any by-law or resolution signed by all members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for the purpose.

Section 7 - Interim Orders

7.01 The Executive Committee, in the circumstances set out in section 7.02, by order may suspend the certificate of registration of a member or may impose such restrictions on the certificate of registration of a member as the Committee designates.

7.02 The Executive Committee may make an order under section 7.01 where the Committee has received a report in writing by the Registrar with respect to the conduct or actions of the member, has considered the explanations and representations in writing, if any, under Section 7.03 of the member and is of the opinion that the conduct or actions of the member expose or are likely to expose to harm or injury persons who are or who become patients of the member.

7.03 No action shall be taken by the Executive Committee under section 7.01 unless the member has been given at least two weeks in which to submit in writing to the Executive Committee any explanations or representations the member may wish to make.

7.04 Where an order is made under section 7.01, the College shall commence proceedings expeditiously before the Discipline Committee in respect of the conduct or actions, or both, of the member and shall prosecute the matter expeditiously.

7.05 The Discipline Committee shall give precedence to and hear and determine proceedings commenced under section 7.04 at as early a date as possible.

7.06 A member whose certificate of registration has been suspended who is of the opinion that the College has not commenced proceedings expeditiously before the Discipline Committee or is not prosecuting the matter expeditiously as required by section 7.04 or that the Discipline Committee is not giving precedence to and hearing and determining the matter at as early a date as possible as required by section 7.05 may make application to the Court for judicial review.

7.07 An application under section 7.06 may be made without leave and the court shall treat the application as a case of urgency where delay is likely to involve a failure of justice and the court may give such directions as the court believes proper for expediting the proceedings mentioned in section 7.06 or may make such order as the court considers proper in the matter.

7.08 An order under section 7.01

(a) shall be in writing;
(b) shall state that it is made under this section; and
(c) shall set out sections 7.04 to 7.07.

7.09 An order under section 7.01 continues in force until the matter is disposed of by the Discipline Committee

The Optometry Act

Section 1 - Definitions

1.01 In this Act

(a) "Advisory Council" means the Health Professions Regulatory Advisory Council as defined by the Health Professions Procedural Code;
(b) "assessment" means the evaluation of a patient's physical or mental state in order to determine whether a treatment within the health professional's scope of practice is appropriate to the patient's condition and if so, in what manner it ought to be applied or administered, and includes communication of the evaluation to the patient and his or her representative.
(c) "by-laws" means the by-laws made under this Act;
(d) "certificate of registration" means a certificate authorizing the practice of optometry issued under this Act;
(e) "College" means the College of Optometrists of Ontario;
(f) "Council" means the Council of the College of Optometrists of Ontario;
(g) "member" means a member of the College of Optometrists of Ontario;
(h) "ophthalmic appliance" means lenses, spectacles, eyeglasses, subnormal vision devices, contact lenses or appurtenances thereto for the aid, correction or relief of visual or ocular anomalies of the eye.
(i) "Registrar" means the Registrar of the College of Optometrists of Ontario;
(j) "regulations" means the regulations made under this Act.

1.02 Optometry is a health profession to which this Act and the Health Professions Procedural Code apply and the College of Optometrists of Ontario and its committees are bound by both Acts.

Section 2 - Scope of Practice

2.01 The practice of optometry is the assessment of the eye and visual system and the diagnosis, treatment and prevention of visual and oculomotor dysfunctions of the eye.

2.01A In the course of practising as an optometrist, a member may perform the following licensed acts:

(1) Diagnosis of visual and oculomotor dysfunctions of the eye.
(2) Using drugs as specified by regulation.
(3) Prescribing ophthalmic appliances.
(4) Dispensing ophthalmic appliances.

2.02 Every person who holds a license issued under Part V of the Health Disciplines Act, being Chapter 196 of the Revised Statutes of Ontario, 1980 and in effect immediately before the ___ day of ___, 19__ will be deemed to be the holder of a certificate of registration that will continue in the same manner as if issued under this Act until it expires or is revoked, suspended or cancelled under this Act.

2.03 Subject to the regulations passed pursuant to this Act, no person except a member shall

(a) hold himself or herself out as,
    (i) registered by or with the College of Optometrists of Ontario, or
    (ii) the holder of a certificate of registration issued by the College of Optometrists of Ontario, or
    (iii)a member of the College of Optometrists of Ontario, or
(b) take or use any name, title or description implying or calculated to lead people to infer that he or she is qualified or recognized by law or otherwise as an optometrist or registered optometrist; or
(c) assume, use or employ the description or the title "optometrist" or "doctor" or any affix or prefix indicative of such titles or qualifications as an occupational designation relating to the provision of human health care unless authorized to do so pursuant to the Chiropractic Act, the Medicine Act, the Dentistry Act or the Psychology Act.

2.04 When in any proceeding an issue arises as to the interpretation of Section 2.01 or 2.01A, the Court may have regard to the expert evidence adduced by the parties with respect thereto.

2.05 Nothing in this Act prevents,

(a) the sale of protective glasses for industrial purposes, colored glasses not embodying any ophthalmic lens, goggles or simple magnifying glasses not sold or devised for the relief or correction of any visual or muscular error or defect of the eye; or

(b) the sale or offering for sale by a retail merchant at his place of business of spectacles or eye glasses,

but the Lieutenant Governor in Council may make regulations governing or restricting the sale or offering for sale referred to in clause (b) and prescribing the terms and conditions thereof and designating the nature and kind of spectacles and eye glasses that may be sold under this subsection.

Section 3 - College Structure

3.01 The College of Optometrists of Ontario is continued as a College as set out in the Health Professions Procedural Code.

3.02 The Council shall be composed of

(a) not fewer than 6 and not more than 10 persons who are members elected in the number and manner determined by the regulations
(b) not fewer than 4 and not more than 6 persons who are not members of the Council of a health profession as designated by the Health Professions Procedural Code or registered under this Act or any other Act governing a health profession and are appointed by the Lieutenant Governor in Council; and
(c) not fewer than 1 and not more than 2 persons appointed by thefaculty of optometry of each university in Ontario that conducts a course in optometry and is authorized to grant degrees in optometry, such person to be appointed from amongst the members of the faculty who are members of the College.

3.03 Subject to the regulations, every member who,

(a) practises or resides in Ontario; and
(b) is not in default of payment of the annual fee prescribed by the regulations; and
(c) is a holder of a certificate of registration in good standing;

is qualified to vote at an election of members of the Council.

3.04 The Council shall elect annually a President and Vice-President from among its members.

3.05 The Council may appoint and terminate at its discretion the appointment of a Deputy Registrar who shall have the powers of the Registrar for the purposes of this Act and the Health Professions Procedural Code.

Section 4 - Committee Composition

4.01 The Executive Committee shall be composed of,

(a) the President, who shall be Chairman of the Committee;
(b) the Vice-President;
(c) 2 members of the Council who are members of the College; and
(d) 1 member of the Council who is appointed by the Council by the Lieutenant Governor in Council.

4.02 The Registration Committee shall be composed of,

(a) 1 member of the Council who is a member of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 3 persons who are members of the College chosen in the manner determined by the regulations.

4.03 The Complaints Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College chosen in the manner determined by the regulations.

4.04 The Discipline Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 2 members of the Council who are appointed to the Council by the Lieutenant Governor in Council; and
(c) 4 persons who are members of the College chosen in the manner determined by the regulations.

4.05 The Fitness to Practise Committee shall be composed of,

(a) 1 member of the Council who is a member of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 3 persons who are members of the College chosen in the manner determined by the regulations.

4.06 The Continuing Competence Committee shall be composed of,

(a) 1 member of the Council who is a member of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 3 persons who are members of the College chosen in the manner determined by the regulations.

4.07 The Council may give the Optometry Review Committee under the Health Insurance Act such other duties as the Council considers appropriate and are not inconsistent with its duties under that Act.

Section 5 - Regulation-Making Powers

5.01 Subject to approval by the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

(a) fixing the number of members to be elected to the Council and establishing electoral districts and regional representation for elections;
(b) respecting and governing the selection, terms of office and conditions of disqualification for members of a committee or committees who are not members of Council;
(c) respecting and governing the qualifications, nomination, election and terms of office of the members to be elected to the Council, and controverted elections;
(d) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;
(e) respecting any matter ancillary to the provisions of this Act with regard to the issuing, suspension and revocation of certificates of registration;
(f) prescribing classes of certificates of registration and governing the requirements and qualifications for the issuing of certificates of registration or any class thereof and prescribing the terms and conditions thereof;
(g) providing for the maintenance and inspection of registers, prescribing information on the register which is open to inspection by the public, and providing for the issuance of certificates of standing by the Registrar;
(h) governing standards of practice for the profession in respect of its scope of practice, and prohibiting acting beyond the scope of practice in the course of acting as a member of the profession;
(i) prescribing the records that shall be kept in respect of the member's practice;
(j) requiring and providing for the inspection and examination of any premises used in connection with the practice of optometry and equipment, books, accounts, reports, and records of members in connection with their practice;
(k) prohibiting the practice of the profession where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
(k^1) defining the activities that constitute a conflict of interest for Council and committee members in the course of their duties as officials of the governing body;
(l) defining professional misconduct for the purposes of this Act;
(m) defining good standing for the purposes of this Act;
(n) providing for a continuing competence program and requiring members to participate in such a program;
(o) providing for the assessment of the standards of practice, qualifications and continuing education of members;
(p) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;
(q) respecting the reporting and publication of decisions of statutory committees;
(r) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;

(r^{1}) requiring the making of returns of information by members of the College in respect of names, addresses, telephone numbers, associates, partners, employees, locations of professional practice and professional activities, and prescribing and requiring the use of forms of such returns;

(s) respecting the duties and authority of the Registrar and Deputy Registrar;

(t) requiring the payment of fees by members in respect of maintaining their certificate of registration, and fees for registration, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;

(u) rescribing forms for the purposes of this Act and providing for their use;

(v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable;

(w) specifying drugs that may be used in the practice of optometry for such purposes as specified;

(x) prescribing the minimum requirements for professional liability insurance or protection, requiring the delivery to the Registrar of proof of such insurance or protection, and prescribing the form of such proof and the manner and time of the delivery;

(y) providing for the giving of notices of public meetings and hearings, and prescribing for that purpose the persons and agencies that are to be given notice, the manner and form in which notice is to be given, and the information that must be contained therein;

(z) providing for the manner in which licensed acts may be delegated by and to its members;

(aa) providing for the designation of life members of the College and prescribing their rights and privileges.

5.02 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting a health profession, the Minister shall distribute the proposals to the Council of each health profession and each Council shall be entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.03 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting optometry, the Registrar shall distribute the proposals to each member, and all members are entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.04 Notwithstanding the requirements in section 5.02 and 5.03, the Minister may modify any notice requirement or time period provided for comment where the Minister determines that the public interest requires him or her to do so.

5.05 Notwithstanding section 5.03, no minor and inadvertent failure to provide notice shall be relied on to invalidate a change in legislation or regulations once passed.

Section 6 - Bylaw-Making Powers

6.01 The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act or the Health Professions Procedural Code and the regulations and without limiting the generality of the foregoing,

(a) prescribing the seal of the College;
(b) providing for the execution of documents by the College;
(c) respecting banking and finance;
(d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
(e) providing procedures for the election of President and Vice-President of the College, the selection of Chairman of each of the committees, the filling of a vacancy in those offices, and prescribing the duties and powers of the President, Vice-President, and Chairmen;
(f) respecting the calling, holding and conducting of meetings of the Council and duties of members of the Council;
(g) respecting the calling, holding and conducting of meetings of the membership of the College;
(h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
(i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
(j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
(k) providing for a code of ethics;
(l) providing for the appointment of inspectors for the purposes of this Act;
(m) prescribing forms and providing for their use;
(n) providing procedures for the making, amending and revoking of the by-laws;
(o) respecting management of the property of the College;
(p) respecting the application of the funds of the College and the reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
(q) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
(r) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;
(s) authorizing the making of grants for any purpose that may tend to advance scientific

knowledge or optometry education, or maintain or improve the standards of practice in optometry or to support and encourage public information and interest in the past and present role of optometry in society;
(t) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

6.02 A copy of the by-laws made under 6.01 and amendments thereto,

(a) shall be forwarded to the Minister;
(b) shall be forwarded to each member;
(c) shall be available for public inspection in the office of the College.

6.03 Any by-law or resolution signed by all members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for the purpose.

Section 7 - Interim Orders

7.01 The Executive Committee, in the circumstances set out in section 7.02, by order may suspend the certificate of registration of a member or may impose such restrictions on the certificate of registration of a member as the Committee designates.

7.02 The Executive Committee may make an order under section 7.01 where the Committee has received a report in writing by the Registrar with respect to the conduct or actions of the member, has considered the explanations and representations in writing, if any, under Section 7.03 of the member and is of the opinion that the conduct or actions of the member expose or are likely to expose to harm or injury persons who are or who become patients of the member.

7.03 No action shall be taken by the Executive Committee under section 7.01 unless the member has been given at least two weeks in which to submit in writing to the Executive Committee any explanations or representations the member may wish to make.

7.04 Where an order is made under section 7.01, the College shall commence proceedings expeditiously before the Discipline Committee in respect of the conduct or actions, or both, of the member and shall prosecute the matter expeditiously.

7.05 The Discipline Committee shall give precedence to and hear and determine proceedings commenced under section 7.04 at as early a date as possible.

7.06 A member whose certificate of registration has been suspended who is of the opinion that the College has not commenced proceedings expeditiously before the Discipline Committee or is not prosecuting the matter expeditiously as required by section 7.04 or that the Discipline Committee is not giving precedence to and hearing and determining the matter at as early a date as possible as required by section 7.05 may make application to the Court for judicial review.

7.07 An application under section 7.06 may be made without leave and the court shall treat the application as a case of urgency where delay is likely to involve a failure of justice and the court may give such directions as the court believes proper for expediting the proceedings mentioned in section 7.06 or may make such order as the court considers proper in the matter.

7.08 An order under section 7.01

(a) shall be in writing;
(b)shall state that it is made under this section; and
(c) shall set out sections 7.04 to 7.07.

7.09 An order under section 7.01 continues in force until the matter is disposed of by the Discipline Committee.

The Pharmacy Act

Section 1 - Definitions

1.01 In this Act

(1) (a) "Advisory Council" means the Health Professions Regulatory Advisory Council as defined by the Health Professions Procedural Code;

(b) "by-laws" means the by-laws made under this Act;

(c) "certificate of registration" means a certificate authorizing the practice of Pharmacy issued under this Act;

(d) "Council" means the Council of the Ontario College of Pharmacists;

(e) "Device" means any article, instrument, apparatus or contrivance, including any component, part or accessory thereof, manufactured, sold or represented for use in

(i) the diagnosis, treatment, mitigation or prevention of a disease, disorder or abnormal physical state, or the symptoms thereof, in man or animal,

(ii) restoring, correcting or modifying a body function or the body structure of man or animal,

(iii)the diagnosis of pregnancy in humans or animals, or

(iv)the care of humans or animals during pregnancy and at and after birth of the offspring, including care of the offspring

and includes a contraceptive device but does not include a drug.

(f) "Deputy Registrar" means the Deputy Registrar of the Ontario College of Pharmacists;

(g) "Drug" means any substance or preparation containing any substance,

(i) manufactured, sold or represented for use in,

1. the diagnosis, treatment, mitigation or prevention of a disease, disorder, abnormal physical or mental state or the symptoms thereof, in humans, animals, fish, or fowl, or
2. restoring, correcting or modifying functions in humans, animals, fish or fowl,

(ii) referred to in Schedule C, D, E, F, G or N.

(iii)listed in a publication named by the regulations, or

(iv)named in the regulations,

but does not include,

(v) any substance or preparation referred to in subclause (i), (ii) or (iii) manufactured, offered for sale or sold as, or as part of, a food, drink or cosmetic.

(vi)any proprietary medicine as defined from time to time by the regulations made under the Food and Drugs Act (Canada) that does not contain any substance or preparation containing any substance referred to in Schedule C, D, E, F, G or N.

(vii)a substance or preparation named in Schedule A or B;

(h) "College" means the Ontario College of Pharmacists;

(i) "intern" means a person who is registered under this Part as an intern;

(j) "member" means a member of the Ontario College of Pharmacists;

(k) "pharmacist" means a person who is the holder of a certificate of registration under this Act;

(l) "Pharmacy" means a premises or any place, vehicle or contrivance, in or in part of which or from which, prescriptions are compounded and dispensed for the public or drugs are sold by retail;

(m) "prescriber" means a person who is authorized to prescribe a drug by virtue of being a holder of a certificate in good standing issued by a College whose members are authorized to prescribe drugs;

(n) "prescription" means a direction from a prescriber directing the dispensing of any drug, or mixture of drugs or device for a designated person, or fish, fowl, or animal;

(o) "register" means a register maintained by the Registrar under this Act;

(p) "Registrar" means the Registrar of the Ontario College of Pharmacists;

(q) "registered pharmacy student" means a person who is registered under this Act as a pharmacy student;

(r) "regulations" means the regulations made under this Act.

(2) A reference in this Act to Schedules A, B, C, D, E, F, G or N is a reference to such Schedule established by the regulations for the purposes of this Act.

1.02 Pharmacy is a health profession to which this Act and the Health Professions Procedural Code apply and the Ontario College of Pharmacists and its committees are bound by both Acts.

1.03 In addition to the objects of the College set out in section 5.02 of the Health Professions Procedural Code Act, the Ontario College of Pharmacists has the additional object to establish, maintain and develop standards for the operation of pharmacies.

Section 2 - Scope of Practice

2.01 The practice of pharmacy is the custody, compounding and, upon the order of a practitioner legally qualified to prescribe drugs, the dispensing of drugs, the provision of non-prescription drugs, health care aids and devices, and the provision of information related to drug use.

2.01A In the course of practising as a pharmacist, a member may perform the following licensed acts:

(1) Dispensing drugs upon the prescription of a practitioner legally qualified to make a prescription.
(2) Sale of drugs.
(3) Compounding drugs.
(4) Supervision of the part of the pharmacy in which drugs are kept.

2.02 Every person who holds a license issued under Part VI of the Health Disciplines Act, being Chapter 196 of the Revised Statutes of Ontario, 1980 and in effect immediately before the ___ day of ___, 19__ will be deemed to be the holder of a certificate of registration that will continue in the same manner as if issued under this Act until it expires or is revoked, suspended or cancelled under this Act.

2.03 Subject to the regulations passed pursuant to this Act, no person except a member shall
(a) hold himself or herself out as,
    (i) registered by or with the Ontario College of Pharmacists, or
    (ii) the holder of a certificate of registration issued by the Ontario College of Pharmacists, or
    (iii)a member of the Ontario College of Pharmacists, or
(b) use the title "pharmacist", "registered pharmacist", "pharmaceutical chemist", "chemist", "druggist", and "apothecary".

2.04 When in any proceeding an issue arises as to the interpretation of section 2.01 or 2.01A, the Court may have regard to the expert evidence adduced by the parties with respect thereto.

2.05 No person shall operate a pharmacy unless,

1. (a) it is under the supervision of a pharmacist who is physically present;
    (b) it is managed by a pharmacist so designated by the owner of the pharmacy; and
    (c) the pharmacist referred to in (1)(b) has custody and control of the drug inventory and distribution records, and any other records relating to the ordering, delivery, custody, compounding, sale, or disposal of drugs relating to the pharmacy.

2. Where the drugs in a pharmacy are restricted to a part of the pharmacy that is not accessible to the public in accordance with the regulations, and while such part is not in operation, clause (1)(a) does not apply to the remaining premises of the pharmacy.
3. Every pharmacist practising in a pharmacy shall publicly display his certificate of registration in the pharmacy except during such period, if any, as the certificate of registration is under suspension.

2.06 (1) This Act does not apply to,

(a) drugs compounded, dispensed or supplied in and by a hospital or a health or custodial institution approved or licensed under any general or specific Act under the authority of a prescriber for persons under health care provided by such hospital or health or custodial institutions;

(b) the selling of,

(i) any substance registered under the Pest Control Products Act (Canada) and sold in accordance with its provisions,

(ii) any feeding stuffs registered under the Feeds Act (Canada) and sold in accordance with its provisions,

(iii)a live stock medicine by a person licensed under the Live Stock Medicines Act;

(c) the practice of a veterinarian under the Veterinarians Act

(2) Nothing in this Act prevents any person from selling or dispensing a drug to a person authorized pursuant to an Act listed in Schedule A to the Health Professions Procedural Code to dispense, prescribe or administer drugs.

Section 3 - College Structure

3.01 The Ontario College of Pharmacists is continued as a College as set out in the Health Professions Procedural Code.

3.02 The Council shall be composed of

(a) not fewer than 8 and not more than 20 persons who are members elected in the number and manner determined by the regulations
(b) not fewer than 9 and not more than 10 persons who are not members of the Council of a health profession as designated by the Health Professions Procedural Code or registered under this Act or any other Act governing a health profession and are appointed by the Lieutenant Governor in Council; and
(c) the dean of each faculty of pharmacy in Ontario or, in his absence, a representative who is a member of the faculty and of the College appointed by the dean.

3.03 Subject to the regulations, every member who,

(a) practises or resides in Ontario; and
(b) is not in default of payment of the annual fee prescribed by the regulations; and
(c) is a holder of a certificate of registration in good standing;

is qualified to vote at an election of members of the Council.

3.04 The Council shall elect annually a President and Vice-President from among its members.

3.05 In addition to the Committees which the Council is empowered to establish pursuant to the Health Professions Procedural Code, the Council shall establish and appoint an Accreditation Committee.

3.06 The Council may appoint and terminate at its discretion the appointment of a Deputy Registrar who shall have the powers of the Registrar for the purposes of this Act and the Health Professions Procedural Code.

Section 4 - Committee Composition

4.01 The Executive Committee shall be composed of,

(a) the President, who shall be Chairman of the Committee;
(b) the Vice-President;
(c) 2 members of the Council who are members of the College; and
(d) 1 member of the Council who is appointed by the Council by the Lieutenant Governor in Council.

4.02 The Registration Committee shall be composed of,

(a) 4 members of the Council who are members of the College; and
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council.

4.03 The Complaints Committee shall be composed of,

(a) 3 members of the Council who are members of the College; and
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council.

4.04 The Discipline Committee shall be composed of,

(a) 6 members of the Council who are members of the College;
(b) 4 members of the Council who are appointed to the Council by the Lieutenant Governor in Council; and
(c) 5 persons who are members of the College.

4.05 The Fitness to Practise Committee shall be composed of,

(a) 4 members of the Council who are members of the College; and
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council.

4.06 The Continuing Competence Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College chosen in the manner determined by the regulations.

4.07 The Accreditation Committee shall be composed of,

(a) 3 members of the Council who are elected to the Council; and
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council,

and shall exercise the powers and carry out the duties assigned to it under Section 7 of this Act.

4.08 In addition to the duties granted to it by the Health Professions Procedural Code, the Discipline Committee shall hear and determine matters referred to it under section 7.08.

Section 5 - Regulation-Making Powers

5.01 Subject to approval by the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

(a) fixing the number of members to be elected to the Council and establishing electoral districts and regional representation for elections;
(b) respecting and governing the selection, terms of office and conditions of disqualification for members of a committee or committees who are not members of Council;
(c) respecting and governing the qualifications, nomination, election and terms of office of the members to be elected to the Council, and controverted elections;
(d) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;
(e) respecting any matter ancillary to the provisions of this Act with regard to the issuing, suspension and revocation of certificates of registration;
(f) prescribing classes of certificates of registration and governing the requirements and qualifications for the issuing of certificates of registration or any class thereof and prescribing the terms and conditions thereof;
(g) providing for the maintenance and inspection of registers, prescribing information on the register which is open to inspection by the public, and providing for the issuance of certificates of standing by the Registrar;
(h) governing standards of practice for the profession in respect of its scope of practice, and prohibiting acting beyond the scope of practice in the course of acting as a member of the profession;
(i) prescribing the records that shall be kept in respect of the member's practice;
(j) requiring and providing for the inspection and examination of any premises used in connection with the practice of pharmacy and equipment, books, accounts, reports, and records of members in connection with their practice;
(k) prohibiting the practice of the profession where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
(k^{1})defining the activities that constitute a conflict of interest for Council and committee members in the course of their duties as officials of the governing body;
defining professional misconduct for the purposes of this Act;
(l^{1}) respecting the advertising of professional services;
defining good standing for the purposes of this Act;
(m)providing for a continuing competence program and requiring members to participate in such a program;
(n) providing for the assessment of the standards of practice, qualifications and continuing education of members;
(o) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;
(p) respecting the reporting and publication of decisions of statutory committees;
(q) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;

(r^1) requiring the making of returns of information by members of the College in respect of names, addresses, telephone numbers, associates, partners, employees, locations of professional practice and professional activities, and prescribing and requiring the use of forms of such returns;

(s) respecting the duties and authority of the Registrar and Deputy Registrar;

(t) requiring the payment of fees by members in respect of maintaining their certificate of registration, and fees for registration, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;

(u) prescribing forms for the purposes of this Act and providing for their use;

(v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable;

(w) prescribing the minimum requirements for professional liability insurance or protection, requiring the delivery to the Registrar of proof os such insurance or protection, and prescribing the form of such proof and the manner and time of delivery;

(x) prescribing the qualifications for and conditions of registration of students and interns and governing in-service training for students and interns;

(y) providing for the designation of honorary members of the College and prescribing their rights and privileges;

(z) providing for the giving of notices of public meetings and hearings, and prescribing for that purpose the persons and agencies that are to be given notice, the manner and form in which notice is to be given, and the information that must be contained therein;

(aa) providing for the manner in which licensed acts may be delegated by and to its members.

5.02 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting a health profession, the Minister shall distribute the proposals to the Council of each health profession and each Council shall be entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.03 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting pharmacy, the Registrar shall distribute the proposals to each member, and all members are entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.04 Notwithstanding the requirements in section 5.02 and 5.03, the Minister may modify any notice requirement or time period provided for comment where the Minister determines that the public interest requires him or her to do so.

5.05 Notwithstanding section 5.03, no minor and inadvertent failure to provide notice shall be relied on to invalidate a change in legislation or regulations once passed.

5.06 Regulations made pursuant to section 9.12 are not subject to the requirements set out in 5.02 and 5.03.

5.07 No person shall in connection with a retail business use the designation,

(a) drug store;
(b) pharmacy;
(c) drug department;
(d) drug sundries;
(e) drug or drugs;
(f) drug mart; or
(g) medicines

unless the business is an accredited pharmacy.

Section 6 - Bylaw-Making Powers

6.01 The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act or the Health Professions Procedural Code and the regulations and without limiting the generality of the foregoing,

(a) prescribing the seal of the College;
(b) providing for the execution of documents by the College;
(c) respecting banking and finance;
(d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
(e) providing procedures for the election of President and Vice-President of the College, the selection of Chairman of each of the committees, the filling of a vacancy in those offices, and prescribing the duties and powers of the President, Vice-President, and Chairmen;
(f) respecting the calling, holding and conducting of meetings of the Council and duties of members of the Council;
(g) respecting the calling, holding and conducting of meetings of the membership of the College;
(h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
(i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
(j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
(k) providing for a code of ethics;
(l) providing for the appointment of inspectors for the purposes of this Act;
(m) prescribing forms and providing for their use;
(n) providing procedures for the making, amending and revoking of the by-laws;
(o) respecting management of the property of the College;
(p) respecting the application of the funds of the College and the reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
(q) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
(r) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;

(s) authorizing the making of grants for any purpose that may tend to advance scientific knowledge or pharmacy education, or maintain or improve the standards of practice in pharmacy or to support and encourage public information and interest in the past and present role of pharmacy in society;

(t) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

6.02 A copy of the by-laws made under section 6.01 and amendments thereto,

(a) shall be forwarded to the Minister;
(b) shall be forwarded to each member;
(c) shall be available for public inspection in the office of the College.

6.03 Any by-law or resolution signed by all members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for the purpose.

Section 7

7.01 No person who is a member of the Discipline Committee shall be a member of the Accreditation Committee.

7.02 The Council shall name one member of the Accreditation Committee to be chairman.

7.03 A majority of the members of the Accreditation Committee constitutes a quorum.

7.04 No person shall establish or operate a pharmacy unless a certificate of accreditation has been issued in respect thereof.

7.05 The Registrar shall issue a certificate of accreditation and renewals thereof to any applicant therefor where the applicant and the pharmacy and its proposed operation qualify under this Act and the regulations and shall refer to the Accreditation Committee every application for a certificate or renewal that he proposes to refuse or to which he considers terms, conditions or limitations should be attached.

7.06 The Accreditation Committee shall determine the eligibility of the applicant and the pharmacy or proposed pharmacy and its operation and may direct the Registrar to issue or refuse to issue the accreditation certificate or to issue the accreditation certificate subject to such terms, conditions or limitations as the Committee directs.

7.07 The provisions of the Health Professions Procedural Code applying to hearings, reviews and appeals in respect of proceedings of the Registration Committee apply, with necessary modifications, in respect of proceedings of the Accreditation Committee.

7.08 Where the Accreditation Committee has reason to believe that a pharmacy or its operation fails to conform to the requirements of this Act and the regulations or to any term, condition or limitation to which its certificate of accreditation is subject, the Committee may refer the matter to the Discipline Committee for a hearing and determination.

7.09 Where the Accreditation Committee refers a matter to the Discipline Committee and the Discipline Committee finds that a pharmacy or its operation fails to conform to the requirements of the Health Professions Procedural Code, this Act and the regulations or to any term, condition or limitation to which its certificate of accreditation is subject, the Discipline Committee may,

(a) suspend the certificate of accreditation for a stated period; or
(b) revoke the certificate of accreditation; or
(c) impose such fine as the Committee considers appropriate to a maximum of $25,000 to be paid by the pharmacy to the Treasurer of Ontario for payment into the Consolidated Revenue Fund.

7.10 The provisions of the Health Professions Procedural Code applying to proceedings before the Discipline Committee in respect of professional misconduct and appeals therefrom apply to the proceedings before the Discipline Committee under section 7.08.

7.11 The Council may cancel a certificate of accreditation for non-payment of the prescribed fee after the person operating the pharmacy has been given at least two months notice of default and intention to cancel.

Section 8

8.01 Every person who permanently closes a pharmacy shall immediately remove all signs and symbols relating to the practice of pharmacy either within or outside the premises, shall remove and dispose of all drugs according to law and shall submit in writing to the Registrar such information and within such time as the regulations prescribe.

8.02 An inspector appointed under a by-law may enter any pharmacy or other shop in the performance of his duties under this Act at all reasonable times.

8.03 Any record required to be kept under this Act shall be open to inspection by any inspector appointed under a by-law.

Section 9

9.01 No person shall knowingly sell any drug under the representation or pretence that it is a particular drug that it is not, or contains any substance that it does not.

9.02 (1) No person shall sell a drug listed in Schedule D unless it is labelled in accordance with the regulations.

(2) No person shall sell by retail a drug listed in Part I of Schedule D unless a record of the sale is made in such manner as the regulations prescribe.

(3) Subsections (1) and (2) do not apply to a drug when it is dispensed pursuant to a prescription or forms part of the ingredients of a prescription.

9.03 Drugs referred to in Schedules D, E, F, G and N shall be sent through the mail only by registered mail.

9.04 The manager of every pharmacy shall keep or cause to be kept a record of every purchase and sale of a drug referred to in Schedule G or N in such form or manner as the regulations may prescribe.

9.05 (1) No person shall sell by retail a substance listed in Schedule B unless it is labelled in accordance with the regulations.

(2) No person other than a pharmacist shall sell by retail a substance listed in Schedule B for the prevention or treatment of an ailment, disease or physical disorder, unless it is sold in the container in which it was received by the seller.

9.06 (1) Subject to the regulations, no person shall sell by retail any drug referred to in Schedule E, F, G or N, except on prescription given in such form, in such manner and under such conditions as the regulations prescribe.

(2) Subsection (1) does not apply to drugs referred to in Part II of Schedule F that are sold in a container labelled by the manufacturer as for veterinary or agricultural use or sold in a form unsuitable for human use.

9.07 (1) Every person who dispenses a drug pursuant to a prescription shall ensure that the following information is recorded on the prescription,

(a) the name and address of the person for whom the drug is prescribed;
(b) the name, strength (where applicable) and quantity of the prescribed drug;
(c) the directions for use, as prescribed;
(d) the name and address of the prescriber;
(e) the identity of the manufacturer of the drug dispensed;
(f) an identification number or other designation;

(g) the signature of the person dispensing the drug and, where different, also the signature of the person receiving a verbal prescription;
(h) the date on which the drug is dispensed;
(i) the price charged.

(2) The records required under subsection (1) shall be retained for not less than two years.

(3) The container in which the drug is dispensed shall be marked with,
(a) the identification number that is on the prescription;
(b) the name, address and telephone number of the pharmacy in which the prescription is dispensed;
(c) the identification of the drug as to its name, its strength and its manufacturer, unless directed otherwise by the prescriber;
(d) the quantity where the drug dispensed is in solid oral dosage form;
(e) the name of the owner of the pharmacy;
(f) the date the prescription is dispensed;
(g) the name of the prescriber;
(h) the name of the person for whom it is prescribed;
(i) the directions for use as prescribed.

9.08 (1) Every person in respect of whom a prescription is presented to a pharmacist to be dispensed, unless otherwise directed by the prescriber, is entitled to have a copy of it marked as such, furnished to him, his agent, or a pharmacist acting on behalf of such person or agent.

(2) Prescriptions in a pharmacy that ceases to operate as a pharmacy shall be delivered to the persons, or agents of the persons, who presented the prescription or to another pharmacy that is reasonably readily available to such person or his agent, or failing either, to the College.

9.09 A pharmacist may dispense a drug pursuant to a written order signed by a physician or dentist licensed to practise in a province in Canada other than Ontario, if in the professional judgment of the pharmacist the patient requires the drug immediately, but such order shall not be refilled.

9.10 (1) Every person who operates or manages a pharmacy shall provide the Minister with such information from records required to be kept under section 9.06(1) as the Minister requests.

(2) The Registrar shall provide the Minister with such information respecting substances referred to in the Schedules, except Schedule A, as the Registrar possesses and the Minister requests.

9.11 (1) No person shall sell by wholesale any drug for the purpose of sale by retail to any person who is not entitled to sell the drug by retail.

(2) Every person supplying drugs by wholesale in Ontario shall register with the College as a drug wholesaler and furnish the Registrar with a signed statement showing,

(a) his full name and address, or if a corporation the name of the corporation, the names and addresses of the president and directors thereof;

(b) the principal business address,

and with respect to his places of business where drugs are handled,

(c) the address of each place of business, agent or representative in Ontario;

(d) the name of the manager or person responsible for each place of business in Ontario;

(e) the date on which he proposes to commence business at each new location in Ontario.

(3) The information required by subsection (2) shall be furnished at least seven days before commencing business and any change in the information required by subsection (2) shall be furnished to the Registrar within seven days of the change.

9.12 (1) Subject to the approval of the Lieutenant Governor in Council, the Council may make regulations,

(a) prescribing the substances that are included in Schedules A, B, C, D, E, F, G and N for the purpose of this Part;

(b) naming substances for the purposes of clause 1.01(f) and specifying the provisions of this Part that shall apply in respect of such substances;

(c) naming publications for the purpose of clause 1.01(f);

(d) prescribing the percentage of any substance to be contained in any preparation referred to in any Schedule;

(e) prescribing the manner in which prescriptions shall be given in respect of the drugs referred to in Schedules E, F, G and N and the conditions under which such prescriptions may be given;

(f) authorizing the refilling of prescriptions without further prescription and prescribing the conditions under which prescriptions may be refilled without further prescription;

(g) prescribing the manner in which records shall be kept of the purchase and sale of the drugs referred to in Schedules D, G, and N;

(h) pertaining to the transfer of prescriptions and the records to be kept by the transferror and the transferee;

(i) designating substances listed in Schedule D that may be sold by persons not otherwise authorized under this Part and authorizing the sale of such substances by any persons or classes of persons not otherwise authorized under this Part and prescribing the conditions under which such substances shall be sold by such persons or classes of persons;

(j) prescribing the labelling of substances listed in Schedule B for the purposes of section 9.04(1) and (2);

(k) providing for the establishment and maintenance of patient record systems;

(l) prescribing the types of containers to be used for containing any drug and the designs, specifications and labelling of containers used for containing any drug;

(m)prescribing standards for accreditation of pharmacies including their operation and the maintenance, space, equipment and facilities required therefor;

(n) providing for applications for certificates of accreditation of pharmacies, and the issuance of such certificates and their expiration and renewal and requiring the payment of fees therefor and prescribing the amount thereof;

(o) providing for the filing with the Registrar of information respecting the location of the place of practice and the residential address of pharmacists, the name and address of pharmacies in the Province of Ontario including the name and address of the owner and the manager of such pharmacies, and any changes therein, and the form of such information and the time of filing;

(p) providing for the information, instruments or documents to be filed with the Registrar by persons opening, acquiring, relocating or closing a pharmacy, the form thereof and the time of filing;

(q) prescribing standards for the subdivision of premises so that drugs are restricted to a specified area and so that the part of the premises to which the drugs are restricted may be rendered not accessible to the public, while the other part remains open;

(r) regulating the handling, location and storage of drugs in a pharmacy.

(2) The Lieutenant Governor in Council may make regulations regulating the use of containers in which drugs may be dispensed and designating organizations to test, certify and designate containers that meet standards approved by the Minister for such purposes as may be specified in the regulations, and requiring the use of containers that are so certified and designated except under such circumstance as are prescribed.

Section 10

10.01 A person who sells any drug in contravention of this Act or the regulations is not entitled to recover any charges in respect thereof.

10.02 Where a licence or certificate of accreditation is revoked or cancelled, the former holder thereof shall forthwith deliver the licence or certificate to the Registrar.

10.03 (1) Every owner or manager of a pharmacy is liable for every offence against this Act committed by any person in his employ or under his supervision with his permission, consent or approval, express or implied, and every director of a corporation operating a pharmacy is liable for every offence against this Act committed by any person in the employ of the corporation with his permission, consent or approval, express or implied.

(2) Where any person operates a pharmacy contrary to this Act or the regulations, the owner and manager of such pharmacy, or either of them, or any director of a corporation operating a pharmacy, may be proceeded against, and prosecution or conviction of either of them is not a bar to prosecution or conviction of the other.

10.04 In any prosecution under this Act,

(a) a certificate as to the analysis of any drug or poison purporting to be signed by a Food and Drug Analyst or Provincial Analyst is admissible in evidence as prima facie proof of the facts stated therein without proof of the appointment or signature of the analyst;

(b) any article labelled as containing any drug is admissible in evidence as prima facie proof that the article contains the drug described on the label;

(c) the label of the container of a drug dispensed pursuant to a prescription is admissible in evidence as prima facie proof that the drug named in the prescription was dispensed;

(d) evidence that a drug is found in a shop or place in which business is transacted is admissible as prima facie proof that it was kept for sale;

(e) evidence of the publishing of a sign, title or advertisement containing the name of an establishment or the owner thereof is admissible in evidence as prima facie proof that the sign, title or advertisement was published by the owner of the establishment.

Section 11 - Interim Orders

11.01 The Executive Committee, in the circumstances set out in section 11.02, by order may suspend the certificate of registration of a member or may impose such restrictions on the certificate of registration of a member as the Committee designates.

11.02 The Executive Committee may make an order under section 11.01 where the Committee has received a report in writing by the Registrar with respect to the conduct or actions of the member, has considered the explanations and representations in writing, if any, under Section 11.03 of the member and is of the opinion that the conduct or actions of the member expose or are likely to expose to harm or injury persons who are or who become patients of the member.

11.03 No action shall be taken by the Executive Committee under section 11.01 unless the member has been given at least two weeks in which to submit in writing to the Executive Committee any explanations or representations the member may wish to make.

11.04 Where an order is made under section 11.01, the College shall commence proceedings expeditiously before the Discipline Committee in respect of the conduct or actions, or both, of the member and shall prosecute the matter expeditiously.

11.05 The Discipline Committee shall give precedence to and hear and determine proceedings commenced under section 11.04 at as early a date as possible.

11.06 A member whose certificate of registration has been suspended who is of the opinion that the College has not commenced proceedings expeditiously before the Discipline Committee or is not prosecuting the matter expeditiously as required by section 11.04 or that the Discipline Committee is not giving precedence to and hearing and determining the mater at as early a date as possible as required by section 11.05 may make application to the Court for judicial review.

11.07 An application under section 11.06 may be made without leave and the court shall treat the application as a case of urgency where delay is likely to involve a failure of justice and the court may give such directions as the court believes proper for expediting the proceedings mentioned in section 11.06 or may make such order as the court considers proper in the matter.

11.08 An order under section 11.01

(a) shall be in writing;
(b) shall state that it is made under this section; and
(c) shall set out sections 11.04 to 11.07.

11.09 An order under section 11.01 continues in force until the matter is disposed of by the Discipline Committee.

Section 12

12.01A No person other than a pharmacist or a corporation complying with the requirements of section 12 shall own or operate a pharmacy.

12.01 No corporation shall own or operate a pharmacy unless the majority of the directors of the corporation are pharmacists.

12.02 Section 12.01 does not apply to the operation of a pharmacy by a non-profit corporation having as its objects and providing health services by members of more than one health profession.

12.03 No person whose certificate of registration as a pharmacist has been revoked for cause or while his certificate is suspended for cause,

(a) shall be employed or work in a pharmacy; or
(b) shall act as a director for the purposes of section 12.01 in a corporation operating a pharmacy.

12.04 For the purposes of the ownership of a pharmacy, or for the purposes of the composition of the board of directors as required by section 12.01, the right to operate the pharmacy shall not be affected by,

(a) the suspension of the certificate of registration of a pharmacist; or
(b) the revocation of the certificate of registration of a pharmacist until after a period of six months has elapsed.

12.05 Where a person owning and operating a pharmacy becomes bankrupt, insolvent or makes an assignment for the benefit of creditors, he shall so notify the Registrar and the trustee in bankruptcy, liquidator or assignee, as the case may be, may own and operate the pharmacy for the purposes of the bankruptcy, insolvency or assignment.

12.06 Every person authorized to own and operate a pharmacy by virtue of section 12.05 shall immediately upon becoming so authorized file with the Registrar evidence of his authority.

The Physiotherapy Act

Section 1 - Definitions

1.01 In this Act

(a) "Advisory Council" means the Health Professions Regulatory Advisory Council as defined by the Health Professions Procedural Code;
(b) "assessment" means the evaluation of a patient's physical or mental state in order to determine whether a treatment within the health professional's scope of practice is appropriate to the patient's condition and if so, in what manner it ought to be applied or administered, and includes communication of evaluation to the patient and his or her representative;
(c) "by-laws" means the by-laws made under this Act;
(d) "certificate of registration" means a certificate authorizing the practice of Physiotherapy issued under this Act;
(e) "College" means the College of Physiotherapists of Ontario;
(f) "Council" means the Council of the College of Physiotherapists of Ontario;
(g) "member" means a member of the College of Physiotherapists of Ontario;
(h) "Registrar" means the Registrar of the College of Physiotherapists of Ontario;
(i) "regulations" means the regulations made under this Act.

1.02 Physiotherapy is a health profession to which this Act and the Health Professions Procedural Code apply and the College of Physiotherapists of Ontario and its committees are bound by both Acts.

Section 2 - Scope of Practice

2.01 The practice of physiotherapy is the assessment of physical function and the treatment, rehabilitation and prevention of physical dysfunction, injury or pain, to develop, maintain, rehabilitate or augment function or to relieve pain.

2.01A In the course of practising as a physiotherapist, a member may perform the following licensed act:

(1) Moving the joints of the spine beyond an individual's usual physiological range of motion using a high-velocity, low-amplitude thrust.

2.02 Every person who was registered as a physiotherapist under the Drugless Practitioners Act, being Chapter 127 of the Revised Statutes of Ontario, 1980 immediately before the ___ day of ___, 19__ shall be deemed to be the holder of a certificate of registration under this Act until it expires or is revoked, suspended or cancelled under this Act.

2.03 Subject to the regulations passed pursuant to this Act, no person except a member shall

(a) hold himself or herself out as,
  (i) registered by or with the College of Physiotherapists of Ontario, or
  (ii) the holder of a certificate of registration issued by the College of Physiotherapists of Ontario, or
  (iii)a member of the College of Physiotherapists of Ontario, or
(b) use the title "physiotherapist" or "registered physiotherapist".

2.04 When in any proceeding an issue arises as to the interpretation of section 2.01 or 2.01A, the Court may have regard to the expert evidence adduced by the parties with respect thereto.

Section 3 - College Structure

3.01 The Board of Directors of Physiotherapy is continued as the College of Physiotherapists of Ontario which is a College as set out in the Health Professions Procedural Code.

3.02 The Council shall be composed of

(a) not fewer than 7 and not more than 10 persons who are members elected in the number and manner determined by the regulations
(b) not fewer than 4 and not more than 6 persons who are not members of the Council of a health profession as designated by the Health Professions Procedural Code or registered under this Act or any other Act governing a health profession and are appointed by the Lieutenant Governor in Council; and
(c) not fewer than 1 and not more than 2 persons who are members of the College and members of the faculty of physiotherapy of a university in Ontario that conducts a course in physiotherapy and is authorized to grant a degree in physiotherapy chosen in the number and manner determined by the regulations.

3.03 Subject to the regulations, every member who,

(a) practises or resides in Ontario; and
(b) is not in default of payment of the annual fee prescribed by the regulations; and
(c) is a holder of a certificate of registration in good standing;

is qualified to vote at an election of members of the Council.

3.04 The Council shall elect annually a President and Vice-President from among its members.

Section 4 - Committee Composition

4.01 The Executive Committee shall be composed of,

(a) the President, who shall be Chairman of the Committee;
(b) the Vice-President;
(c) 2 members of the Council who are members of the College; and
(d) 1 member of the Council who is appointed by the Council by the Lieutenant Governor in Council.

4.02 The Registration Committee shall be composed of,

(a) 2 members of the Council who are members of the College; and
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 1 person who is a member of the College chosen in the manner determined by the regulations.

4.03 The Complaints Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 1 person who is a member of the College chosen in the manner determined by the regulations.

4.04 The Discipline Committee shall be composed of,

(a) 3 members of the Council who are members of the College;
(b) 2 members of the Council who are appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College chosen in the manner determined by the regulations.

4.05 The Fitness to Practise Committee shall be composed of,

(a) 2 members of the Council who are members of the College; and
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council.

4.06 The Continuing Competence Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College chosen in the manner determined by the regulations.

4.07 The Council may give the Physiotherapy Review Committee under the Health Insurance Act such other duties as the Council considers appropriate and are not inconsistent with its duties under that Act.

Section 5 - Regulation-Making Powers

5.01 Subject to approval by the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

(a) fixing the number of members to be elected to the Council and establishing electoral districts and regional representation for elections;
(b) respecting and governing the selection, terms of office and conditions of disqualification for members of a committee or committees who are not members of Council;
(c) respecting and governing the qualifications, nomination, election and terms of office of the members to be elected to the Council, and controverted elections;
(d) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;
(e) respecting any matter ancillary to the provisions of this Act with regard to the issuing, suspension and revocation of certificates of registration;
(f) prescribing classes of certificates of registration and governing the requirements and qualifications for the issuing of certificates of registration or any class thereof and prescribing the terms and conditions thereof;
(g) providing for the maintenance and inspection of registers, prescribing information on the register which is open to inspection by the public, and providing for the issuance of certificates of standing by the Registrar;
(h) governing standards of practice for the profession in respect of its scope of practice, and prohibiting acting beyond the scope of practice in the course of acting as a member of the profession;
(i) prescribing the records that shall be kept in respect of the member's practice;
(j) requiring and providing for the inspection and examination of any premises used in connection with the practice of physiotherapy and equipment, books, accounts, reports, and records of members in connection with their practice;
(k) prohibiting the practice of the profession where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
(k^1) defining the activities that constitute a conflict of interest for Council and committee members in the course of their duties as officials of the governing body;
(l) defining professional misconduct for the purposes of this Act;
(m) defining good standing for the purposes of this Act;
(n) providing for a continuing competence program and requiring members to participate in such a program;
(o) providing for the assessment of the standards of practice, qualifications and continuing education of members;
(p) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;
(q) respecting the reporting and publication of decisions of statutory committees;
(r) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;

(r^1) requiring the making of returns of information by members of the College in respect of names, addresses, telephone numbers, associates, partners, employees, locations of professional practice and professional activities, and prescribing and requiring the use of forms of such returns;

(s) respecting the duties and authority of the Registrar;

(t) requiring the payment of fees by members in respect of maintaining their certificate of registration, and fees for registration, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;

(u) prescribing forms for the purposes of this Act and providing for their use;

(v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable;

(w) providing for the expiration of certificates and governing the requirements and qualifications for the issuing and renewal of certificates;

(x) prescribing the minimum requirements for professional liability insurance or protection, requiring the delivery to the Registrar of proof of such insurance or protection, and prescribing the form of such proof and the manner and time of the delivery;

(y) providing for the giving of notices of public meetings and hearings, and prescribing for that purpose the persons and agencies that are to be given notice, the manner and form in which notice is to be given, and the information that must be contained therein;

(z) providing for the manner in which licensed acts may be delegated to its members.

5.02 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting a health profession, the Minister shall distribute the proposals to the Council of each health profession and each Council shall be entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.03 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting physiotherapy, the Registrar shall distribute the proposals to each member, and all members are entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.04 Notwithstanding the requirements in section 5.02 and 5.03, the Minister may modify any notice requirement or time period provided for comment where the Minister determines that the public interest requires him or her to do so.

5.05 Notwithstanding section 5.03, no minor and inadvertent failure to provide notice shall be relied on to invalidate a change in legislation or regulations once passed.

Section 6 - Bylaw-Making Powers

6.01 The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act or the Health Professions Procedural Code and the regulations and without limiting the generality of the foregoing,

(a) prescribing the seal of the College;
(b) providing for the execution of documents by the College;
(c) respecting banking and finance;
(d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
(e) providing procedures for the election of President and Vice-President of the College, the selection of Chairman of each of the committees, the filling of a vacancy in those offices, and prescribing the duties and powers of the President, Vice-President, and Chairmen;
(f) respecting the calling, holding and conducting of meetings of the Council and duties of members of the Council;
(g) respecting the calling, holding and conducting of meetings of the membership of the College;
(h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
(i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
(j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
(k) providing for a code of ethics;
(l) providing for the appointment of inspectors for the purposes of this Act;
(m) prescribing forms and providing for their use;
(n) providing procedures for the making, amending and revoking of the by-laws;
(o) respecting management of the property of the College;
(p) respecting the application of the funds of the College and the reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
(q) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
(r) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;
(s) authorizing the making of grants for any purpose that may tend to advance scientific

knowledge or physiotherapy education, or maintain or improve the standards of practice in physiotherapy or to support and encourage public information and interest in the past and present role of physiotherapy in society;

(t) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

6.02 A copy of the by-laws made under 6.01 and amendments thereto,

(a) shall be forwarded to the Minister;
(b) shall be forwarded to each member;
(c) shall be available for public inspection in the office of the College.

6.03 Any by-law or resolution signed by all members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for the purpose.

Section 7 - Interim Orders

7.01 The Executive Committee, in the circumstances set out in section 7.02, by order may suspend the certificate of registration of a member or may impose such restrictions on the certificate of registration of a member as the Committee designates.

7.02 The Executive Committee may make an order under section 7.01 where the Committee has received a report in writing by the Registrar with respect to the conduct or actions of the member, has considered the explanations and representations in writing, if any, under Section 7.03 of the member and is of the opinion that the conduct or actions of the member expose or are likely to expose to harm or injury persons who are or who become patients of the member.

7.03 No action shall be taken by the Executive Committee under section 7.01 unless the member has been given at least two weeks in which to submit in writing to the Executive Committee any explanations or representations the member may wish to make.

7.04 Where an order is made under section 7.01, the College shall commence proceedings expeditiously before the Discipline Committee in respect of the conduct or actions, or both, of the member and shall prosecute the matter expeditiously.

7.05 The Discipline Committee shall give precedence to and hear and determine proceedings commenced under section 7.04 at as early a date as possible.

7.06 A member whose certificate of registration has been suspended who is of the opinion that the College has not commenced proceedings expeditiously before the Discipline Committee or is not prosecuting the matter expeditiously as required by section 7.04 or that the Discipline Committee is not giving precedence to and hearing and determining the matter at as early a date as possible as required by section 7.05 may make application to the Court for judicial review.

7.07 An application under section 7.06 may be made without leave and the court shall treat the application as a case of urgency where delay is likely to involve a failure of justice and the court may give such directions as the court believes proper for expediting the proceedings mentioned in section 7.06 or may make such order as the court considers proper in the matter.

7.08 An order under section 7.01

(a shall be in writing;
(b) shall state that it is made under this section; and
(c) shall set out sections 7.04 to 7.07.

7.09 An order under section 7.01 continues in force until the matter is disposed of by the Discipline Committee.

The Psychology Act

Section 1 - Definitions

1.01 In this Act

(a) "Advisory Council" means the Health Professions Regulatory Advisory Council as defined by the Health Professions Procedural Code;
(b) "assessment" means the evaluation of a patient's physical or mental state in order to determine whether a treatment within the health professional's scope of practice is appropriate to the patient's condition and if so, in what manner it ought to be applied or administered, and includes communication of evaluation to the patient and his or her representative;
(c) "by-laws" means the by-laws made under this Act;
(d) "certificate of registration" means a certificate authorizing the practice of psychology issued under this Act;
(e) "College" means the College of Psychologists of Ontario;
(f) "Council" means the Council of the College of Psychologists of Ontario;
(g) "member" means a member of the College of Psychologists of Ontario;
(h) "Registrar" means the Registrar of the College of Psychologists of Ontario;
(i) "regulations" means the regulations made under this Act.

1.02 Psychology is a health profession to which this Act and the Health Professions Procedural Code apply and the College of Psychologists of Ontario and its committees are bound by both Acts.

Section 2 - Scope of Practice

2.01 The practice of psychology is the assessment of behavioral and mental conditions, the diagnosis of neuropsychological disorders and dysfunctions and psychotic, neurotic and personality disorders and dysfunctions and the prevention and treatment of behavioral and mental disorders and dysfunctions and the maintenance and enhancement of physical, intellectual, emotional, social and interpersonal functioning.

2.01A In the course of practising as a psychologist, a member may perform the following licensed act:

(1) Diagnosis of neuropsychological disorders and dysfunctions and psychologically based psychotic, neurotic and personality disorders and dysfunctions.

2.02 Every certificate of registration issued under the Psychologists Registration Act, being Chapter 404 of the Revised Statutes of Ontario, 1980 and in effect immediately before the ___ day of ___, 19__ continues in the same manner as if issued under this Act until it expires or is revoked, suspended or cancelled under this Act.

2.03 Subject to the regulations passed pursuant to this Act, no person except a member shall,

(a) hold himself or herself out as,
  (i) registered by or with the College of Psychologists of Ontario, or
  (ii) the holder of a certificate of registration issued by the College of Psychologists of Ontario, or
  (iii) a member of the College of Psychologists of Ontario; or
(b) use the title "psychologist" and "registered psychologist";
(c) assume, use or employ the description or the title "doctor" or any affix or prefix indicative of such a title or qualification as an occupational designation relating to the provision of human health care unless authorized to do so pursuant to the Chiropractic Act, the Medicine Act, the Dentistry Act or the Optometry Act.

2.04 When in any proceeding an issue arises as to the interpretation of section 2.01 or 2.01A, the Court may have regard to the expert evidence adduced by the parties with respect thereto.

Section 3 - College Structure

3.01 The Ontario Board of Examiners in Psychology is continued as the College of Psychologists of Ontario which is a College as set out in the Health Professions Procedural Code.

3.02 The Council shall be composed of

(a) not fewer than 6 and not more than 9 persons who are members elected in the number and manner determined by the regulations
(b) not fewer than 4 and not more than 6 persons who are not members of the Council of a health profession as designated by the Health Professions Procedural Code or registered under this Act or any other Act governing a health profession and are appointed by the Lieutenant Governor in Council; and
(c) not fewer than 2 and not more than 3 members, such members to be selected in the number and manner determined by the regulations from the full time faculty of a department of psychology in a university in Ontario designated by regulation.

3.03 Subject to the regulations, every member who,

(a) practises or resides in Ontario; and
(b) is not in default of payment of the annual fee prescribed by the regulations; and
(c) is a holder of a certificate of registration in good standing;

is qualified to vote at an election of members of the Council.

3.04 The Council shall elect annually a President and Vice-President from among its members.

Section 4 - Committee Composition

4.01 The Executive Committee shall be composed of,

(a) the President, who shall be Chairman of the Committee;
(b) the Vice-President;
(c) 2 members of the Council who are members of the College; and
(d) 1 member of the Council who is appointed by the Council by the Lieutenant Governor in Council.

4.02 The Registration Committee shall be composed of,

(a) 2 members of the Council who are members of the College; and
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 1 person who is a member of the College chosen in the manner determined by the regulations.

4.03 The Complaints Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 1 person who is a member of the College chosen in the manner determined by the regulations.

4.04 The Discipline Committee shall be composed of,

(a) 3 members of the Council who are members of the College;
(b) 2 members of the Council who are appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College chosen in the manner determined by the regulations.

4.05 The Fitness to Practise Committee shall be composed of,

(a) 2 members of the Council who are members of the College; and
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 1 person who is a member of the College chosen in the manner determined by the regulations.

4.06 The Continuing Competence Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College chosen in the manner determined by the regulations.

Section 5 - Regulation-Making Powers

5.01 Subject to approval by the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

(a) fixing the number of members to be elected to the Council and establishing electoral districts and regional representation for elections;
(b) respecting and governing the selection, terms of office and conditions of disqualification for members of a committee or committees who are not members of Council;
(c) respecting and governing the qualifications, nomination, election and terms of office of the members to be elected to the Council, and controverted elections;
(d) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;
(e) respecting any matter ancillary to the provisions of this Act with regard to the issuing, suspension and revocation of certificates of registration;
(f) prescribing classes of certificates of registration and governing the requirements and qualifications for the issuing of certificates of registration or any class thereof and prescribing the terms and conditions thereof;
(g) providing for the maintenance and inspection of registers, prescribing information on the register which is open to inspection by the public, and providing for the issuance of certificates of standing by the Registrar;
(h) governing standards of practice for the profession in respect of its scope of practice, and prohibiting acting beyond the scope of practice in the course of acting as a member of the profession;
(i) prescribing the records that shall be kept in respect of the member's practice;
(j) requiring and providing for the inspection and examination of any premises used in connection with the practice of psychology and equipment, books, accounts, reports, and records of members in connection with their practice;
(k) prohibiting the practice of the profession where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
(k^1) defining the activities that constitute a conflict of interest for Council and committee members in the course of their duties as officials of the governing body;
(l) defining professional misconduct for the purposes of this Act;
(m) defining good standing for the purposes of this Act;
(n) providing for a continuing competence program and requiring members to participate in such a program;
(o) providing for the assessment of the standards of practice, qualifications and continuing education of members;
(p) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;
(q) respecting the reporting and publication of decisions of statutory committees;
(r) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;

(r^1) requiring the making of returns of information by members of the College in respect of names, addresses, telephone numbers, associates, partners, employees, locations of professional practice and professional activities, and prescribing and requiring the use of forms of such returns;

(s) respecting the duties and authority of the Registrar;

(t) requiring the payment of fees by members in respect of maintaining their certificate of registration, and fees for registration, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;

(u) prescribing forms for the purposes of this Act and providing for their use;

(v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable;

(w) providing for the expiration of certificates and governing the requirements and qualifications for the issuing and renewal of certificates;

(x) prescribing the minimum requirements for professional liability insurance or protection, requiring the delivery to the Registrar of proof of such insurance or protection, and prescribing the form of such proof and the manner and time of the delivery;

(y) providing for the giving of notices of public meetings and hearings, and prescribing for that purpose the persons and agencies that are to be given notice, the manner and form in which notice is to be given, and the information that must be contained therein;

(z) providing for the manner in which licensed acts may be delegated to its members;

(aa) providing for the designation of life members of the College and prescribing their rights and privileges;

(bb) respecting the designation of departments of psychology in a university in Ontario, the full time faculty of which are eligible for appointment to Council.

5.02 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting a health profession, the Minister shall distribute the proposals to the Council of each health profession and each Council shall be entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.03 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting psychology, the Registrar shall distribute the proposals to each member, and all members are entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.04 Notwithstanding the requirements in section 5.02 and 5.03, the Minister may modify any notice requirement or time period provided for comment where the Minister determines that the public interest requires him or her to do so.

5.05 Notwithstanding section 5.03, no minor and inadvertent failure to provide notice shall be relied on to invalidate a change in legislation or regulations once passed.

Section 6 - Bylaw-Making Powers

6.01 The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act or the Health Professions Procecdural Code and the regulations and without limiting the generality of the foregoing,

(a) prescribing the seal of the College;
(b) providing for the execution of documents by the College;
(c) respecting banking and finance;
(d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
(e) providing procedures for the election of President and Vice-President of the College, the selection of Chairman of each of the committees, the filling of a vacancy in those offices, and prescribing the duties and powers of the President, Vice-President, and Chairmen;
(f) respecting the calling, holding and conducting of meetings of the Council and duties of members of the Council;
(g) respecting the calling, holding and conducting of meetings of the membership of the College;
(h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
(i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
(j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
(k) providing for a code of ethics;
(l) providing for the appointment of inspectors for the purposes of this Act;
(m) prescribing forms and providing for their use;
(n) providing procedures for the making, amending and revoking of the by-laws;
(o) respecting management of the property of the College;
(p) respecting the application of the funds of the College and the reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
(q) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
(r) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;

(s) authorizing the making of grants for any purpose that may tend to advance scientific knowledge or psychology education, or maintain or improve the standards of practice in psychology or to support and encourage public information and interest in the past and present role of psychology in society;

(t) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

6.02 A copy of the by-laws made under section 6.01 and amendments thereto,

(a) shall be forwarded to the Minister;
(b) shall be forwarded to each member;
(c) shall be available for public inspection in the office of the College.

6.03 Any by-law or resolution signed by all members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for the purpose.

Section 7 - Interim Orders

7.01 The Executive Committee, in the circumstances set out in section 7.02, by order may suspend the certificate of registration of a member or may impose such restrictions on the certificate of registration of a member as the Committee designates.

7.02 The Executive Committee may make an order under section 7.01 where the Committee has received a report in writing by the Registrar with respect to the conduct or actions of the member, has considered the explanations and representations in writing, if any, under section 7.03 of the member and is of the opinion that the conduct or actions of the member expose or are likely to expose to harm or injury persons who are or who become patients of the member.

7.03 No action shall be taken by the Executive Committee under section 7.01 unless the member has been given at least two weeks in which to submit in writing to the Executive Committee any explanations or representations the member may wish to make.

7.04 Where an order is made under section 7.01, the College shall commence proceedings expeditiously before the Discipline Committee in respect of the conduct or actions, or both, of the member and shall prosecute the matter expeditiously.

7.05 The Discipline Committee shall give precedence to and hear and determine proceedings commenced under section 7.04 at as early a date as possible.

7.06 A member whose certificate of registration has been suspended who is of the opinion that the College has not commenced proceedings expeditiously before the Discipline Committee or is not prosecuting the matter expeditiously as required by section 7.04 or that the Discipline Committee is not giving precedence to and hearing and determining the matter at as early a date as possible as required by section 7.05 may make application to the Court for judicial review.

7.07 An application under section 7.06 may be made without leave and the court shall treat the application as a case of urgency where delay is likely to involve a failure of justice and the court may give such directions as the court believes proper for expediting the proceedings mentioned in section 7.06 or may make such an order as the Court considers proper in the matter.

7.08 An order under section 7.01
(a) shall be in writing;
(b) shall state that it is made under this section; and
(c) shall set out sections 7.04 to 7.07.

7.09 An order under section 7.01 continues in force until the matter is disposed of by the Discipline Committee.

The Respiratory Therapy Act

Section 1 - Definitions

1.01 In this Act

(a) "Advisory Council" means the Health Professions Regulatory Advisory Council as defined by the Health Professions Procedural Code;
(b) "assessment" means the evaluation of a patient's physical or mental state in order to determine whether a treatment within the health professional's scope of practice is appropriate to the patient's condition and if so, in what manner it ought to be applied or administered, and includes communication of evaluation to the patient and his or her representative;
(c) "by-laws" means the by-laws made under this Act;
(d) "certificate of registration" means a certificate authorizing the practice of respiratory Therapy issued under this Act;
(e) "College" means the College of Respiratory Therapists of Ontario;
(f) "Council" means the Council of the College of Respiratory Therapists of Ontario;
(g) "member" means a member of the College of Respiratory Therapists of Ontario;
(h) "Registrar" means the Registrar of the College of Respiratory Therapists of Ontario;
(i) "regulations" means the regulations made under this Act.

1.02 Respiratory therapy is a health profession to which this Act and the Health Professions Procedural Code apply and the College of Respiratory Therapists of Ontario and its committees are bound by both Acts.

Section 2 - Scope of Practice

2.01 The practice of respiratory therapy is oxygen therapy, equipment monitoring and the assessment and treatment of cardiorespiratory and associated disorders upon the order of a physician to maintain or restore ventilation.

2.01A In the course of practising as a respiratory therapist, a member may perform the following licensed acts:

(1) Intubation beyond the nares and the larynx when an order authorizing the performance of the procedure in relation to a patient has been made by a physician.
(2) Performing the administration of substances by injection or inhalation when an order authorizing the performance of the procedure in relation to a patient has been made by a physician.

2.02 Subject to the regulations passed pursuant to this Act, no person except a member shall

(a) hold himself or herself out as,
  (i) registered by or with the College of Respiratory Therapists of Ontario, or
  (ii) the holder of a certificate of registration issued by the College of Respiratory Therapists of Ontario, or
  (iii) a member of the College of Respiratory Therapists of Ontario, or
(b) use the title "respiratory therapist" or "registered respiratory therapist".

2.03 When in any proceeding an issue arises as to the interpretation of section 2.01 or 2.01A, the Court may have regard to the expert evidence adduced by the parties with respect thereto.

Section 3 - College Structure

3.01 The College of Respiratory Therapists of Ontario is a College as set out in the Health Professions Procedural Code.

3.02 The Council shall be composed of

(a) not fewer than 8 and not more than 12 persons who are members elected in the number and manner determined by the regulations;
(b) not fewer than 4 and not more than 6 persons who are not members of the Council of a health profession as designated by the Health Professions Procedural Code or registered under this Act or any other Act governing a health profession and are appointed by the Lieutenant Governor in Council.

3.03 Subject to the regulations, every member who,

(a) practises or resides in Ontario; and
(b) is not in default of payment of the annual fee prescribed by the regulations; and
(c) is a holder of a certificate of registration in good standing;

is qualified to vote at an election of members of the Council.

3.04 The Council shall elect annually a President and Vice-President from among its members.

Section 4 - Committee Composition

4.01 The Executive Committee shall be composed of,

(a) the President, who shall be Chairman of the Committee;
(b) the Vice-President;
(c) 2 members of the Council who are members of the College; and
(d) 1 member of the Council who is appointed by the Council by the Lieutenant Governor in Council.

4.02 The Registration Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 1 person who is a member of the College chosen in the manner determined by the regulations.

4.03 The Complaints Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 1 person who is a member of the College chosen in the manner determined by the regulations.

4.04 The Discipline Committee shall be composed of,

(a) 3 members of the Council who are members of the College;
(b) 2 members of the Council who are appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College chosen in the manner determined by the regulations.

4.05 The Fitness to Practise Committee shall be composed of,

(a) 2 members of the Council who are members of the College; and
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council.

4.06 The Continuing Competence Committee shall be composed of,

(a) 2 members of the Council who are members of the College;
(b) 1 member of the Council who is appointed to the Council by the Lieutenant Governor in Council; and
(c) 2 persons who are members of the College chosen in the manner determined by the regulations.

Section 5 - Regulation-Making Powers

5.01 Subject to approval by the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

(a) fixing the number of members to be elected to the Council and establishing electoral districts and regional representation for elections;
(b) respecting and governing the selection, terms of office and conditions of disqualification for members of a committee or committees who are not members of Council;
(c) respecting and governing the qualifications, nomination, election and terms of office of the members to be elected to the Council, and controverted elections;
(d) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;
(e) respecting any matter ancillary to the provisions of this Act with regard to the issuing, suspension and revocation of certificates of registration;
(f) prescribing classes of certificates of registration and governing the requirements and qualifications for the issuing of certificates of registration or any class thereof and prescribing the terms and conditions thereof;
(g) providing for the maintenance and inspection of registers, prescribing information on the register which is open to inspection by the public, and providing for the issuance of certificates of standing by the Registrar;
(h) governing standards of practice for the profession in respect of its scope of practice, and prohibiting acting beyond the scope of practice in the course of acting as a member of the profession;
(i) prescribing the records that shall be kept in respect of the member's practice;
(j) requiring and providing for the inspection and examination of any premises used in connection with the practice of respiratory therapy and equipment, books, accounts, reports, and records of members in connection with their practice;
(k) prohibiting the practice of the profession where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
(k^1)defining the activities that constitute a conflict of interest for Council and committee members in the course of their duties as officials of the governing body;
(l) defining professional misconduct for the purposes of this Act;
(m)defining good standing for the purposes of this Act;
(n) providing for a continuing competence program and requiring members to participate in such a program;
(o) providing for the assessment of the standards of practice, qualifications and continuing education of members;
(p) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;
(q) respecting the reporting and publication of decisions of statutory committees;
(r) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;

(r^1) requiring the making of returns of information by members of the College in respect of names, addresses, telephone numbers, associates, partners, employees, locations of professional practice and professional activities, and prescribing and requiring the use of forms of such returns;

(s) respecting the duties and authority of the Registrar;

(t) requiring the payment of fees by members in respect of maintaining their certificate of registration, and fees for registration, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;

(u) prescribing forms for the purposes of this Act and providing for their use;

(v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable;

(w) providing for the expiration of certificates and governing the requirements and qualifications for the issuing and renewal of certificates;

(x) prescribing the minimum requirements for professional liability insurance or protection, requiring the delivery to the Registrar of proof of such insurance or protection, and prescribing the form of such proof and the manner and time of the delivery;

(y) providing for the giving of notices of public meetings and hearings, and prescribing for that purpose the persons and agencies that are to be given notice, the manner and form in which notice is to be given, and the information that must be contained therein;

(z) providing for the manner in which licensed acts may be delegated to its members.

5.02 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting a health profession, the Minister shall distribute the proposals to the Council of each health profession and each Council shall be entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.03 Where the Minister or a Council proposes changes to be made in legislation or regulations respecting respiratory therapy, the Registrar shall distribute the proposals to each member, and all members are entitled to make written submissions to the Advisory Council with respect to such proposals within 30 days of their circulation, or within such longer period as the Advisory Council may specify.

5.04 Notwithstanding the requirements in section 5.02 and 5.03, the Minister may modify any notice requirement or time period provided for comment where the Minister determines that the public interest requires him or her to do so.

5.05 Notwithstanding section 5.03, no minor and inadvertent failure to provide notice shall be relied on to invalidate a change in legislation or regulations once passed.

Section 6 - Bylaw-Making Powers

6.01 The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act or the Health Professions Procedural Code and the regulations and without limiting the generality of the foregoing,

(a) prescribing the seal of the College;
(b) providing for the execution of documents by the College;
(c) respecting banking and finance;
(d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
(e) providing procedures for the election of President and Vice-President of the College, the selection of Chairman of each of the committees, the filling of a vacancy in those offices, and prescribing the duties and powers of the President, Vice-President, and Chairmen;
(f) respecting the calling, holding and conducting of meetings of the Council and duties of members of the Council;
(g) respecting the calling, holding and conducting of meetings of the membership of the College;
(h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
(i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
(j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
(k) providing for a code of ethics;
(l) providing for the appointment of inspectors for the purposes of this Act;
(m) prescribing forms and providing for their use;
(n) providing procedures for the making, amending and revoking of the by-laws;
(o) respecting management of the property of the College;
(p) respecting the application of the funds of the College and the reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
(q) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
(r) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;

(s) authorizing the making of grants for any purpose that may tend to advance scientific knowledge or respiratory therapy education, or maintain or improve the standards of practice in respiratory therapy or to support and encourage public information and interest in the past and present role of respiratory therapy in society;
(t) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

6.02 A copy of the by-laws made under 6.01 and amendments thereto,

(a) shall be forwarded to the Minister;
(b) shall be forwarded to each member;
(c) shall be available for public inspection in the office of the College.

6.03 Any by-law or resolution signed by all members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for the purpose.

Section 7 - Interim Orders

7.01 The Executive Committee, in the circumstances set out in section 7.02, by order may suspend the certificate of registration of a member or may impose such restrictions on the certificate of registration of a member as the Committee designates.

7.02 The Executive Committee may make an order under section 7.01 where the Committee has received a report in writing by the Registrar with respect to the conduct or actions of the member, has considered the explanations and representations in writing, if any, under Section 7.03 of the member and is of the opinion that the conduct or actions of the member expose or are likely to expose to harm or injury persons who are or who become patients of the member.

7.03 No action shall be taken by the Executive Committee under section 7.01 unless the member has been given at least two weeks in which to submit in writing to the Executive Committee any explanations or representations the member may wish to make.

7.04 Where an order is made under section 7.01, the College shall commence proceedings expeditiously before the Discipline Committee in respect of the conduct or actions, or both, of the member and shall prosecute the matter expeditiously.

7.05 The Discipline Committee shall give precedence to and hear and determine proceedings commenced under section 7.04 at as early a date as possible.

7.06 A member whose certificate of registration has been suspended who is of the opinion that the College has not commenced proceedings expeditiously before the Discipline Committee or is not prosecuting the matter expeditiously as required by section 7.04 or that the Discipline Committee is not giving precedence to and hearing and determining the mater at as early a date as possible as required by section 7.05 may make application to the Court for judicial review.

7.07 An application under section 7.06 may be made without leave and the court shall treat the application as a case of urgency where delay is likely to involve a failure of justice and the court may give such directions as the court believes proper for expediting the proceedings mentioned in section 7.06 or may make such order as the court considers proper in the matter.

7.08 An order under section 7.01

(a) shall be in writing;
(b) shall state that it is made under this section; and
(c) shall set out sections 7.04 to 7.07.

7.09 An order under section 7.01 continues in force until the matter is disposed of by the Discipline Committee.

Participants and Others in Contact with the Review

Acupuncture Association of British Columbia
Acupuncture Foundation of Canada
Advisory Council on Legislation of Esthetics
Advocacy Resource Center for the Handicapped
Alzner School of Reflexology and Deep Muscle Therapy, Inc.
American Nutritional Medical Association, Inc.
Applied Kinesiology Canada
Association of Adult Protective Services
Association of Allied Health Professionals: Ontario
Association of Casualty Care Personnel
Association of Colleges of Applied Arts and Technology of Ontario
Association of Concerned Citizens for Preventive Medicine
Association of Hearing Aid Dispensers
Association of Ontario Health Centres
Association of Ontario Midwives
Association of Ophthalmic Assistants of Ontario
Association of Professional Aestheticians, Ontario
Association of Registered Dental Technicians
Association of Remedial Gymnasts (Ontario)
Bioenergetic Psychotherapy Institute
Biological Photography Association
Board of Directors of Chiropractic
Board of Directors of Osteopathy
Board of Directors of Masseurs
Board of Directors of Physiotherapy
Board of Directors of Drugless Therapy
Board of Ophthalmic Dispensers
Board of Radiological Technicians
Board of Regents, Chiropody
Botanic Medicine Society
Canadian Acupuncture Association of Canada Inc.
Canadian Association of Psychoanalytic Psychotherapists for Children
Canadian Association of Retail Dentists
Canadian Association of University Schools of Nursing
Canadian Auditory Equipment Association
Canadian Chiropractic Association
Canadian College of Natural Healing
Canadian College of Oriental Therapy
Canadian College of Physicists in Medicine
Canadian Dance Movement Therapy Association
Canadian Guild of Dispensing Opticians
Canadian Hearing Society
Canadian Holistic Medical Association
Canadian Medical Association
Canadian Memorial Chiropractic College
Canadian Mental Health Association, Ontario Division
Canadian Natural Hygiene Society
Canadian Orthoptic Society
Canadian Osteopathic Aid Society
Canadian Prescription Footwear Association
Canadian Society for Professional Engineers
Canadian Society of Hospital Pharmacists
Canadian Society of Pulmonary and Cardiovascular Technologists
Canadian Society of Vascular Technology
Canadian Union of Public Employees
Cardiology Technologists Association of Ontario
Child Care Workers' Association
Chinese Medicine and Acupuncture Association of Canada
Chiropractic Alliance (Ontario)
Choices for Childbirth
Church of Christian Science
Clinical Biomedical Engineers
Coalition on Psychiatric Services
College of Nurses of Ontario
College of Optometrists of Ontario
College of Family Physicians of Canada - Ontario Chapter
College of Physicians and Surgeons of Ontario
Colon Therapy Association of Canada
Commercial Dental Laboratory Conference
Community Resources Consultants
Consumer and Corporate Affairs Canada, Bureau of Competition Policy, Director of Investigation and Research, Combines Investigation Act
Consumer Health of Canada, Toronto Branch
Consumer Health Organization of Canada, Hamilton Chapter
Consumers' Association of Canada (Ontario)
Council of Ontario Universities
Council on Therapeutic Recreation
Dance Movement Therapy Association of Ontario
Denturist Association of Canada

Denturist Association of Ontario
Department of Kinesiology - Simon Fraser University
Department of Kinesiology - University of Waterloo
Department of Nutritional Sciences, Faculty of Medicine, University of Toronto
Electrolysis Association of Ontario
Family Service Association of Metro Toronto
George Brown Alumni Association of Dental Technicians
Governing Board of Dental Technicians
Governing Board of Denture Therapists
Hamilton and District Council of Women
Health Disciplines Board
Health Law Section, Canadian Bar Association - Ontario
Health Science Education Coordinator, MCU
Institute of Biomedical Engineering
Institute of Pastoral Studies - St. Paul University, Ottawa
Institute of Self Healing
Living Foods Toronto
McMaster School of Nursing
Medical Hydrotherapy Association
Medical Reform Group
Medical Services Branch, Health and Welfare Canada, Ontario Region
Metro Action Committee on Public Violence Against Women and Children
Mohawk College Occupational Therapy Graduate Group 1980-1984
National Health Products Association
Natural Scientists in Health
Non-Prescription Drug Manufacturers Association
Nutritional Consultants Organization of Canada, Inc.
Ombudsman/Ontario
Ontario Association for Marriage and Family Therapy
Ontario Association of Applied Kinesiology
Ontario Association of Children's Mental Health Centres
Ontario Association of Consultants, Counsellors, Psychometrists, and Psychotherapists
Ontario Association of Dispensing Opticians
Ontario Association of Homes for the Aged
Ontario Association of Optometrists
Ontario Association of Pathologists
Ontario Association of Professional Social Workers
Ontario Association of Prosthetists and Orthotists
Ontario Association of Radiology Managers
Ontario Association of Registered Nursing Assistants
Ontario Athletic Therapist Association
Ontario Board of Examiners in Psychology
Ontario Branch of the Canadian Institute of Public Health Inspectors
Ontario Chiropractic Association
Ontario College of Certified Social Workers
Ontario College of Health Records Administrators
Ontario College of Naturopathic Medicine
Ontario College of Pharmacists
Ontario Contact Lens Association
Ontario Dental Association
Ontario Dental Hygienists' Association
Ontario Dental Nurses and Assistants Association
Ontario Dietetic Association
Ontario Food Service Supervisors' Association
Ontario Health Coalition
Ontario Hearing Aid Association
Ontario Herbalists Association
Ontario Hospital Association
Ontario Massage Therapy Association
Ontario Medical Association
Ontario Naturopathic Association
Ontario Nurses' Association
Ontario Nursing Home Association
Ontario Osteopathic Association
Ontario Pharmacists' Association
Ontario Physiotherapy Association
Ontario Podiatry Association
Ontario Psychiatric Association
Ontario Psychological Association
Ontario Public Health Association
Ontario Public Service Employees' Union
Ontario Region, Canadian Association of University Schools of Medicine
Ontario Society of Clinical Chemists
Ontario Society of Clinical Hypnosis
Ontario Society of Diagnostic Medical Sonographers
Ontario Society of Electroencephalograph Technologists
Ontario Society of Medical Technologists

Ontario Society of Medical Radiation Technologists
Ontario Society of Occupational Therapists
Ontario Society of Public Health Dentists
Ontario Speech and Hearing Association
Ontario Veterinary Association
Patients' Rights Association
PEBEC School of Esthetics and Cosmetology
Polysonographers Association
Professionals in Sexology and Human Sexuality
Registered Nurses' Association of Ontario
Reseau D'action pour une Sante Integrale
Respiratory Therapy Society of Ontario
Royal College of Dental Surgeons
St. Clair College of Applied Arts and Technology
Service Employees International Union
Shiatsu School of Canada Inc.
Shiatsu Therapy Association of Ontario
Societe Alzheimer Society Ottawa-Hull
Society of Independent and Community Pharmacists
Standard Optical Company Limited
Supporters of Chinese Traditional Acupuncture
Tesle Enterprises, Inc.
Thornhill Optical
Toronto Art Therapy Institute
Toronto Institute of Medical Technology
Toronto Psychoanalytic Society
Toronto Society for Bioenergetic Analysis
Toronto Society for Bioenergetic Analysis
Toronto Vegetarian Association
University of Toronto Physical Therapy Faculty
University of Waterloo, School of Optometry
University of Western Ontario - Faculty of Dentistry
Vascular Technology Group

Ruth E. Andrews
George Beaton
Viola M. Byrick
Maria T. Cooper
Michael Ciupka
Debbie Cockwell
Elizabeth Cutler
Ron Dakin
John Devine
I. Dubinsky
Douglas Fiddler
Alex Frickleton
Mark W. Gielow
Elaine Gort
Gerald Green
Lois Hanes
Ernest R. Hillrich
Sylvia M. Hvidsten
Mass Iannuzzi
Suzanne Jackson
Henry Jayakody
B. Johnston and R.D. Newell
Doug Jutzi
Bernard Kafka
P. Kirkby
Max Kleinman
Eleanor Krangle
Philip Krentiris
Sandy Leggatt
Grant MacDonald
S. A. MacGregor
Cindy Madigan
Alan Martin
George Milne
Donna Jean Morphy
Patricia Murdoch
D.M. Nathwani
Eric Nelson
Adele J. Quaiattini
Samuel Randor
Carl J. Reich
Margaret Reid
Robert Richards
W. Kirby Rowe
Jim Semchism
Cheryl Sidenberg
A.L. Slater
Susan L. Smith
Richard Stack
Stuart Swan
Richard Taylor
R. Thakur
M. Torney
Carolyn Tushy
Marie Upchan

Erwin Waschnig
Bryan Westwood
B. Whittaker
Tom Wisni
Melville Woods
Carol Yamey
Martin Yount
Esthetics
Advocacy Resource Center for the Handicapped
Alzner School of Reflexology